

*Translation from Danish by Danske Bank of a report dated 31 October 2021 from KPMG/Poul Schmith. In case of discrepancies, the Danish version prevails.*

# Impartial investigation of Danske Bank A/S's debt collection

Report no. 1 concerning the Danish FSA's decision of 26 November 2020

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## 1. INTRODUCTION AND BACKGROUND

### 1.1 Background and purpose of the investigation

#### *1.1.1 Request for an account of Danske Bank's debt collection system dated 31 August 2020 and the bank's response of 10 September 2020*

The Danish FSA was informed by Danske Bank A/S (the bank) in June 2019 that the bank had identified problems in relation to its debt collection systems. The problems identified led to the risk that the bank had collected amounts in excess of the customers' actual debt owed to the bank. The bank informed the Danish FSA that an internal working group had been set up to investigate the background and extent of the errors and that the bank would correct the balance and/or pay out compensation to all customers concerned when they had been identified and their claims had been calculated.

On 31 August 2020, the Danish FSA requested the bank to provide an account of the errors in the debt collection systems. In this connection, the account should include information about when the bank first discovered the errors, when the errors were actually made and how the errors had affected the bank's customers. In addition, the Danish FSA asked to receive an account from the bank on how the bank would avoid new errors in future, and on what measures had been taken in this connection, and on how many customers were affected by the errors. The bank also had to explain the process of compensating the bank's customers.

On 10 September 2020, the bank sent a response to the Danish FSA explaining the root causes of errors identified by the bank and 14 additional issues identified in the bank's debt collection systems.

#### *1.1.2 The Danish Financial Supervisory Authority's decision of 21 September 2020 with orders on measures and the bank's response of 20 October*

Following the bank's statement, the Danish FSA issued its decision on 21 September 2020, in which the FSA found that the bank had acted in breach of the good business practice rules by having used flawed debt collection systems since at least 2004, with the consequence that money to which the bank was not entitled had been collected from an unknown number of customers.

According to the decision, the Danish FSA considered the findings to constitute a serious breach of the good business practice rules. The FSA also found that it was contrary to the good business practice rules that the bank had not taken any steps to ensure that the bank stopped collecting amounts to which it was not entitled and that it was in breach of the good business practice rules that customers who may be affected by the errors in the debt collection systems had not been informed.

In its decision of 21 September 2020, the Danish FSA issued the following orders in relation to the four root causes identified by the bank as the source of errors in the bank's debt collection:

1. The bank was to stop collecting debt from all existing customers of the bank's debt collection department unless an insignificant risk exists that money will be collected from the customer that the customer does not owe and to ensure that this takes place at no cost to the customer and to allow these customers to suspend the repayment of their debt at no additional cost to the customers
2. The bank was required to notify all customers who may have been affected by wrongful debt collection by means of individual communication.

In addition, the Danish FSA ordered the bank to take the following measures in respect of the additional 14 issues in which the bank could wrongfully have collected money from customers or customers could otherwise have suffered losses:

3. The bank had to notify all customers who may have been affected by wrongful debt collection by means of individual communication
4. The bank had to notify all customers who may have been affected by wrongful debt collection by means of individual communication

By letter dated 20 October 2020, the bank sent an account to the Danish FSA of the bank's compliance with the four orders mentioned above.

### ***1.1.3 The FSA's order of 26 November 2020 for an impartial investigation***

By its decision of 26 November 2020, the Danish FSA issued an order to the bank to arrange for an impartial investigation, see section 347 b(1) of the Danish Financial Business Act.

The decision stated that the impartial investigation should clarify and assess the following:

- 1) Whether the measures taken and to be taken by Danske Bank to correct the errors in its debt collection process are sufficient and thus will address the causes of the errors and the derived consequences. This includes an assessment of whether the bank's method and principles for the search and identification of the customers affected by the case are correct. It also includes an assessment of the matters set out in appendix 2.5 to the bank's response of 10 September 2020 and the steps taken by the bank to resolve these matters.
- 2) Whether Danske Bank's new IT system for debt collection can handle the various types of data and thus ensure correct debt collection. In this connection, the investigation must determine whether Danske Bank has put in place satisfactory measures to ensure that existing data is cleansed and subject to improved controls, and that going forward no incorrect data is

transferred to the bank's IT systems for debt collection so that future debt collection will take place on a correct and adequate basis and be handled by means of appropriate controls. The investigation will also determine whether the new IT system will be able to support the other IT systems and the debt collection process from the date of implementation.

In collaboration with the Danish FSA, the bank has therefore appointed KPMG and Poul Schmith to in cooperation carry out an impartial investigation of the bank's handling and the measures taken to correct the errors in the bank's debt collection systems.

## 1.2 Scope of this report

As discussed with the Danish FSA at meetings in July–October 2021, this report no. 1 does not include a comprehensive answer to the questions covered by the FSA's decision of 26 November 2020.

The reason for this is that the bank's work on remediating its debt collection process, in relation to the assumptions underlying the original deadline for reporting on the findings of the impartial investigation, is not at such an advanced stage that it is currently possible completely to answer the questions raised. The bank's work to remediate the four root causes, including the implementation of system adjustments and data cleaning, has thus been delayed on an ongoing basis, among other things because of a greater complexity than assumed in the bank's original plan. In addition, the 28 additional issues that the bank has currently identified also make the bank's work on remediating the area more difficult.

As described in section 9, since the FSA's decision of 26 November 2020, the bank has identified a number of additional issues related to the bank's debt collection processes, and the bank has also established that in relation to a number of the original root causes of errors, the remediation work is more difficult or time-consuming than originally assumed. The bank's timetable for remediating all of the issues identified currently extend into 2023, but as many matters remain unresolved, the overall timetable is still associated with uncertainty.

The overall timetable for the remediation of the bank's debt collection process means that it is only possible at this stage to present preliminary conclusions on a number of the matters covered by the FSA's order of 26 November 2020.

As a result of the above, in respect of **the four root causes**, this report includes only our conclusions on the following:

- Whether the bank has correctly identified and understood the errors, including the extent and consequences of the errors.

- Whether the bank has implemented interim measures to ensure that the errors do not continue to involve a risk of illegal or wrongful debt collection, including whether the measures implemented are effective and adequate, and whether the measures are likely to include the right customers of the bank.
- Whether the bank has ensured the necessary communication to its customers.
- Whether the bank has paid adequate and correct compensation to customers who are likely to be entitled to such compensation.

The report does not, however, contain an assessment of whether the bank has taken such measures that in future it will be able to correctly collect debt from its customers, whether the matters that led to the errors in the bank's IT systems have been corrected, whether the bank has implemented such business processes and controls that ensure that the errors are not repeated and whether the bank has made necessary corrections to data.

The report also contains a description of 19 of the additional **issues identified** (the so-called "additional issues") for which the bank had submitted preliminary analyses to us on 1 September 2021.

For these 19 additional issues, the report includes our conclusions on the following based on the information available so far:

- Whether the bank is found to have correctly identified and described the error, including in relation to the extent and consequences of the error.
- Whether the bank has implemented interim measures to ensure that the error does not continue to involve a risk of illegal or wrongful debt collection, including whether the measures implemented are effective and adequate, and whether the measures are likely to include the right customers of the bank.
- Whether the bank has secured the necessary communication to its customers.
- Preliminary comments and observations on whether the error is likely to give rise to payment (or offsetting) to the bank's customers and, if so, preliminary comments on the bank's assessment of the extent of such compensation.

The report therefore does not therefore include our assessment of whether the bank has identified all customers affected by the additional issues and whether the bank has correctly calculated any compensation for the additional issues and whether the bank has paid this compensation to the customers affected.



The report also does not include our assessment of whether the bank has taken such measures that in future and whether the bank has implemented such business processes and controls that ensure that errors are not repeated if the interim measures are removed.

Finally, we do not assess whether the bank has made any necessary corrections to data about the bank's customers, including correction of the debt balance of the customers who, after the corrections, will continue to owe the bank money.

See section 4 for a description of the status and timetable for the bank's further work on remediating debt collection issues.

### **1.3 Delimitation, assumptions and method selection**

#### ***1.3.1 Delimitation and assumptions***

##### ***1.3.1.1 Regarding question 1 in the Danish Financial Supervisory Authority's decision of 26 November 2020***

With regard to the first question in the FSA's decision of 26 November 2020, the Danish FSA requested the impartial reviewer's assessment of whether the measures taken and to be taken by the bank to correct the errors in its debt collection process are sufficient and thus will address the causes of the errors and the derived consequences. The investigation must cover both the four root causes and the additional issues identified.

To determine the relevance and adequacy of the measures, one must look at the nature of the errors and the derived consequences. For a detailed description of the four root causes, see section 5. The measures taken by the bank are to ensure that in future errors cannot lead to the risk of wrongful collection of debt from the potentially affected customers (preventive measures) and that the customers affected are identified for the purpose of informing them about the errors and any compensation and repayment of amounts in cases where the errors have led to overcollection.

In this connection, the Danish FSA's order to the bank dated 21 September 2020 constitutes a relevant framework for this investigation. The FSA has thus ordered the bank to stop collecting debt for all existing customers in the bank's debt collection department, unless there is an insignificant risk that the bank will collect money from the customer that is not owed to the bank. The bank must also ensure that this is done at no cost to the customer and that these customers can pause debt repayment at no additional cost to the customer. Finally, the bank must inform all customers who may be affected by erroneous debt collection by way of individual communication. Furthermore, the Danish FSA has ordered the bank to take measures to ensure that the risk of any errors in the debt collection is eliminated or is limited to an acceptable level as soon as the error has been established and to inform affected customers by way of individual communication as soon as the bank has established with reasonable certainty that the customer belongs to a group that may be affected by the errors detected.

Question 1 in the FSA's decision of 26 November 2020, according to its wording, also includes an assessment of whether the bank's method and principles for the search and identification of customers affected by the four root causes are correct and adequate.

This report describes our observations regarding the measures taken by the bank to counter the risk that the four root causes and subsequent issues identified may lead to continued overcollection of the bank's customers, including the steps taken by the bank to inform customers of the risk of errors. In addition, the report contains our observations regarding the bank's work on compensating customers who due to the four root causes have or may have paid too much to the bank.

In this connection, we have followed the bank's work since the spring of 2021 and have received documents and answers to questions we have asked for on an ongoing basis. In addition, a number of meetings have been held with the bank, especially in the period after August 2021, during which the bank allocated additional resources to answer our questions.

In general, we note that in a number of areas we have lacked adequate documentation of the bank's analyses, selected approaches and the measures taken. Consequently, we have had to ask questions about the documentation provided and seek clarification through questions and clarification meetings with the key persons at the bank. We have sought to indicate where the circumstances described are based solely on the information provided by the bank and where documentation or descriptive documents have been produced by the bank.

We have not reviewed specific cases, and we have not examined or verified the bank's information about individual customer relationship, etc. We have also not sought access to source code in the IT systems used by the bank, nor have we recalculated individual cases where the bank has paid compensation based on the described and approved compensation models. We have therefore largely taken into account the information we have received from the bank, including, for example regarding the compensation models, and the descriptions or draft descriptions that the bank has provided in response to our questions.

Please note that we have not carried out any investigations and/or assessments of the bank's compliance with the data protection rules apart from to the extent described in section 9.4.12, including whether the bank complies with the rules on storing and deleting information etc. As described in section 9.4.15, we have not carried out an independent examination of the basis for the bank's assessment of the impact of the errors identified on the bank's bookkeeping and on the bank's quarterly and annual reports, including an assessment of the bank's valuations and other matters in the bank's financial statements.

### *1.3.1.2 Regarding question 2 in the Danish Financial Supervisory Authority's decision of 26 November 2020*

With regard to question 2 in the Danish FSA's decision of 26 November 2020, we are asked for our assessment of whether the bank, in relation to the four root causes, see section 5, and in relation to the other circumstances where errors or deviations have been found in relation to the IT-supported debt collection process, see section 9, have taken the necessary measures to ensure that errors have been corrected, including that the errors in future do not affect the legality of the debt collection etc.

As described in section 1.2, this report does not generally cover the questions that are comprised by question 2 of the FSA's decision of 26 November 2020, since the bank's work on remediating the debt collection process is not at such an advanced stage relative to the original deadline for the reporting on the impartial investigation that is presently possible to adequately answer all questions in the orders. See section 4.2 for the description of the status and timetable for the bank's work.

To the extent that this report contains comments or observations on question 2 in the FSA's decision of 26 November 2020, it should be emphasised that we have generally taken the information received from the bank as the basis for this. As regards the correction of errors in data and IT systems, we have therefore attached decisive importance to the descriptions received from the bank and to the documentation for implementation and testing received from the bank. Only where there have been special reasons for this, have we requested that the bank provide supplementary documentation for specific matters, for example if the information received from the bank has been contradictory or incomplete. We have not carried out our own tests of the bank's IT systems, nor have we carried out any technical analyses of these systems or the framework on which they are based.

### **1.3.2 Method selection and analysis design**

#### *1.3.2.1 Legal clarifications*

In connection with the investigation, we have identified a number of key legal assumptions that among other things underlie the bank's error diagnosis, identification of affected customers, calculation of compensation and the construction and use of the bank's IT systems and manual processes.

We have examined the documentation underlying these key legal assumptions, and where there have been grounds for doing so, we have carried out independent legal investigations of and clarified matters which have had a decisive impact on the conclusions of the investigation.

In relation to key assumptions where the bank has obtained legal advice from one or more external advisers, we have not generally made a new legal assessment of the assessments made by the bank's adviser. However, we have conducted separate investigations if we have found that a specific legal assessment may be subject to uncertainty, which is not reflected in the advice obtained by the bank,

nor has been taken into account in connection with the bank's choice of measures to prevent or correct the errors detected.

To the extent that the bank's case handling during the investigation has been identified as being based on legal interpretations which are subject to not insignificant uncertainty in relation to the legal assessments, we draw attention to this fact, and we provide our assessment as to whether the bank has made reasonable efforts to organise its case handling so that the uncertainty does not affect the legality of the debt collection process.

### *1.3.2.2 Manual procedures*

In a number of cases, answering the questions from the Danish FSA has required an assessment of the bank's manual business procedures in relation to the collection that takes place using the bank's IT systems.

When we assess manual business procedures, we have focused on those parts of such business procedures that, according to the bank's description, are of decisive importance for the implementation of one or more of the measures to deal with the errors and deviations that have been identified. In this connection, we have assessed whether the business procedures have been described in sufficiently precise terms and whether the bank has been able to demonstrate that the business procedures have been incorporated into operations in such a way that it is reasonably certain that they are monitored by the bank's employees on an ongoing basis.

In connection with the above, we have also assessed whether the bank has established a sufficient control environment, including implemented validations and controls, which ensure that the manual business procedures are complied with by the bank's employees now and in future, and if this is not the case, whether the bank has initiated adequate mitigating actions.

Also in relation to the bank's manual procedures, it should be emphasised that it falls outside the scope of our investigation to consider all the bank's manual processes and all parts of the individual processes. Nor can it for the manual business procedures be ruled out that in future errors in the bank's processes, which are not related to the matters that have been the subject of our investigation will be detected.

### *1.3.3 Data collection, verification of information and cooperation with the bank*

In connection with the impartial investigation, the bank has established a process for the exchange of information, including a process for making information about measures, organisation and progress available for the investigation. The bank has structured the process in consideration of the fact that we conduct an impartial investigation for the Danish FSA, see section 347 b(1) of the Danish Financial Business Act.

The process has meant that we have had to ask for information in more precise areas, after which requests have been answered on the basis of actual demand.

In response to information requests, the individual units responsible for the relevant areas of the bank have been sent information requests and then identified and qualified the relevant information that should form the basis for their response. A preliminary response to the information requests has subsequently been subject to a verification and approval process with the aim of ensuring that the materiality and correctness of the information was verified. In addition, the documentation was subject to an anonymization process, so that personal data etc. was removed.

Unless otherwise expressly stated, we have therefore assumed that the relevant information provided to us by the bank for the purposes of this report to the best of the bank's knowledge is correct and adequate.

In connection with the preparation of this report, we have also submitted a draft report to the bank for consultation in order to ensure that the factual information and material assumptions to be used in our assessments in this report are also, to the best of the bank's knowledge, correct and complete.

The report is thus based on the following assumptions:

- that information, documents and material provided by the bank were correct and complete at the time of the provision of the information, to the best of the bank's knowledge, unless the bank has explicitly informed us otherwise
- that where documents and other material have lacked relevant information, the bank has not withheld material information related to the specific subjects in the documents or material at the time they were provided
- information, documents and material have been provided to us by persons who possess sufficient knowledge and capacity to disclose such information, including that it has been verified and approved by persons authorised to do so

From 5 March 2021 to 25 October 2021, the bank delivered 1,029 documents totalling 9,257 pages via the virtual data room.

In addition to the bank's prioritisation of work on handling compensation for the four root causes within the deadline announced by the Danish FSA, this highly formalised process of exchanging information has made the response time for the delivery of the material requested considerably longer than assumed from the start of the investigation. Together with relevant persons from the bank, we have therefore sought to improve the process by means of matching expectations and improved planning, and by ensuring the possibility of informal exchange of information at a large number of sessions where questions were asked. Despite the fact that these measures have improved the process in the period after the first phase of the investigation, the bank's long response times have made it difficult to keep up-to-date reporting to the Danish FSA on an ongoing basis.

In connection with the work on paying compensation to customers who have been affected by root causes 1–4, the bank has focused to a large extent on meeting the deadlines for compensating customers that the bank has notified to the Danish FSA. A consequence of this was that the bank to a certain extent only subsequently prepared documentation for the process steps completed, and that the documentation in a number of areas was not sufficiently detailed to be able to form the basis for an examination of what the bank had done. As described below, section 7 on compensation models for root causes 1–4, we have therefore had to perform our investigations to some extent on the basis of draft documents and descriptions that do not appear as final and have not always had the necessary details.

## 2. DEFINITIONS

**The four root causes** mean the four causes of errors in the bank's debt collection, which were initially identified by the bank and are described in more detail in section 5.

**The additional issues** mean the 28 additional issues described in section 9.

**Danske Bank** means Danske Bank A/S. To the extent that the report concerns legal entities other than Danske Bank A/S, this is stated separately.

**ORIS reporting** means an Operational Risk Identification System report. This report is made internally at the bank when a potential risk of errors occurs in the systems and depending on the circumstances is reported to the Danish FSA if the risk is assessed to be real.

**DCS** means "Debt Collection System" and is the collection system used to collect defaulted debt under regular banking products such as overdraft facilities, standing loans, guarantees, etc. This system was implemented by the bank in 2004, and debt items were transferred (migrated) from previous collection systems.

**PF** means "Personlige Fordringer" (Personal Claims) and is the collection system used to collect defaulted debt that has arisen in cases where the customer fails to make repayments on mortgage loans granted by Realkredit Danmark A/S and where the collateral secured on the property has not been sufficient to repay the mortgage loan in full. This system was implemented in the bank in 1979, but according to our information, the data in the system dates to the 1990s today.

### 3. SUMMARY AND SUMMARY OF ASSESSMENT

#### 3.1 Background and status of the bank's work to remediate its debt collection

##### 3.1.1 *The four root causes*

As described in section 1, the bank informed the Danish FSA in 2019 that the bank had detected four problems ("root causes") that may have led to errors in the bank's debt collection, including leading to collection of legally non-enforceable and incorrectly calculated amounts from the bank's customers, thus meaning that customers may have paid amounts to the bank that exceed their total debt to the bank.

The four errors – known as root causes in this report – comprise the following:

- Root cause 1: The principal amount, interest and fees were merged in the bank's debt collection systems, thus leading to incorrect handling of limitation periods for interest etc.
- Root cause 2: The limitation dates were registered incorrectly in the bank's debt collection systems, thus leading to incorrect handling of limitation periods for the bank's claims.
- Root cause 3: In a number of cases, guarantors were incorrectly registered as co-debtors in the bank's debt collection systems, and this may have led to wrongful debt collection in respect of the individual guarantors.
- Root cause 4: Missing link between two or more co-debtors in the bank's debt collection systems may have caused the bank to collect more than the actual amount of total debt.

According to the information provided by the bank, all four root causes were found in the bank's own debt collection system, DCS, whereas only root cause 1 was found in the PF system, which is used for collection of debt on behalf of Realkredit Danmark A/S.

According to the information provided, root causes 1 and 2 occurred on an ongoing basis as general errors in connection with the establishment of debt in the debt collection systems and in connection with the transfer of debt (so-called conversion) from previous debt collection systems to DCS at its introduction in 2004. Root causes 3 and 4 occurred, however, solely in connection with the transfer to DCS in 2004.

According to the information provided, both systems are today used for debt collection from both personal customers (consumers) and business customers, the majority of the debt collection cases relating to personal customers according to the information provided.



Root causes 1 and 2 affect a very large number of the customers registered by the bank for debt collection (a total of about 197,000 customers). Generally, these two root causes involve a risk that debt items in the bank's debt collection systems may be registered with late limitation dates, which in particular entails the risk of wrongful collection of time-barred debt from the bank's customers in respect of interest and fees.

Root causes 3 and 4 affect a limited group of customers (a total of about 11,000 customers) and imply that overcollection by the bank may take place in respect of the affected customers. Thus, the error in relation to guarantors may have led to collection of a larger amount than that for which the individual guarantors are liable as stated in the guarantee commitment (root cause 3). Moreover, several debtors may have been subject to collection of an amount larger than the debt for which they are jointly liable (root cause 4).

The four root causes may have caused the bank's customers to repay debt that was not legally enforceable or that was incorrectly calculated.

In relation to some customers, the errors have led to the debt registered in the bank's debt collection systems being too large today, for example because the debt includes elements such as time-barred interest-rate items or because the customers regularly paid time-barred interest items so that their payments did not reduce the legally enforceable interest-bearing part of their debt.

In relation to another group of customers, the errors have not only led to the debt being registered incorrectly today. For these customers, the errors have meant that they repaid more to the bank than they owed. This means that these customers have repaid too much and are/have been entitled to receive a repayment from the bank. Firstly, these customers include a group of customers whose cases were previously closed in the bank's debt collection systems, for example in connection with customers having paid the claims that the bank had made against them. Secondly, these customers include a group whose debt collection cases remain open and in respect of which the bank has continued to register unpaid debts in its debt collection cases although the customers have repaid too much to the bank.

With the assistance of external consultants and advisers, the bank has carried out an analysis of the original four root causes for the purposes of

- a) mapping the errors and their causes
- b) identifying and implementing the necessary measures to ensure, on an interim basis, that errors, going forward, do not lead to the risk of wrongful debt collection from the potentially affected customers unless the risk is characterised as being insignificant

- c) clarifying whether the errors have led to wrongful debt collection and whether, as a result, repayment of all or part must be made to the bank's customers of amounts paid by or recovered from the persons concerned
- d) identifying customers who may be affected by the errors and providing information to these customers of the risk that their debt collection cases may be subject to errors
- e) identifying and implementing the necessary measures to correct errors, including adjusting the functionalities of the bank's IT systems and introducing new business procedures to be implemented before the bank can remove the interim measures introduced to prevent the error; this includes resuming debt collection to the extent that it has been suspended in full or in part
- f) correcting data in the bank's IT systems, including rectifying the debt balance for customers who still owe debt to the bank to allow debt collection to be resumed on a correct and satisfactory basis of data.

As described in section 1.2, the bank has not yet implemented all of the measures that are necessary, as shown by the investigations and analyses conducted, to remediate its debt collection. In this connection, see the description of the four root causes in section 5 and the more detailed description of the bank's measures in sections 6 and 8.

At the end of October 2021, the bank had completed calculating compensation for customers affected by the four root causes and made disbursement to customers for whom this is practicably feasible. For a detailed description of the bank's efforts to calculate and pay compensation for the four root causes, see section 7.

In relation to the above, it should be noted that the implementation of the measures set out above (items e and f) constitutes a key condition for the bank to be able to collect debt from the affected customers in future without the risk of wrongful collection of amounts, see question 2 in the Danish Financial Supervisory Authority's decision of 26 November 2020.

The bank's work on the measures covered by items e and f has, to some extent, begun, but has not yet been completed, and the bank's plan for completion shows that the work is expected to take place in 2022 and in parts of 2023, see section 4.2 on the bank's timetable for the further work. Among other things, this implies that a number of the customers whose debt collection cases remain open for some time will continue to be registered in the bank's debt collection systems with an amount of outstanding debt calculated at a level that is too high. This will also cause the bank to provide incorrect debt information to the Danish tax authorities.

### **3.1.2 Additional issues identified**

As described, in addition to the four root causes, the bank has identified a number of additional issues.

At the time of submission of this report, the additional issues include errors within 28 topics, which include a number of very diverse issues, including issues relating to a number of bankruptcy/probate cases, issues concerning compliance with personal data-related rules and issues concerning the bank's compliance with agreements and statutory rules or compliance with good practice rules in a number of areas identified.

This report considers only 19 of the identified additional issues, for which the bank, at 1 September 2021, had performed analyses. See section 9 for further details.

It is important to emphasise that the nature and complexity of the additional issues identified vary, but that a number of the issues are similar to the original four root causes in nature and in scope as well as in relation to the fact that the issue may have a direct impact on the debt of the individual customer. In our opinion, the designation as either a root cause or an additional issue is mostly a result of the bank's internal ongoing acknowledgement process and of the organisation with which the bank has chosen to deal with the errors.

As with the four root causes, the additional issues may have led to the bank's customers having paid incorrectly calculated debt amounts, the debt registered for some of the customers today being too large, and some customers having paid more to the bank than they actually owed. After the compensation to customers affected by the four root causes has been calculated, the additional issues mean that there will still be many cases in which precisely these customers are entitled to further compensation and/or offsetting against amounts owed to the bank. Furthermore, a number of other customers of the bank will be entitled to compensation or offsetting due to the additional issues later identified. For a number of the additional issues, the latter customers have not been finally identified and no final calculation has been made of any compensation to which these customers may be entitled. As stated, this report therefore also does not consider the question of compensation as a result of these additional issues.

It should be noted that the bank's work on the additional issues is generally considerably less advanced than the work that is being done on the original four root causes, and that our conclusions and observations in relation to these issues are therefore also subject to greater uncertainty and more reservations.

### **3.2 The bank's organisation of the work to remediate its debt collection**

As described in section 4.1, the bank has established a governance structure to organise the work to handle and to correct the various problems in its debt collection processes. The structure includes a number of different designated programmes and sub-units, which are working to correct the problems

within each their specific areas of responsibility. In October 2021, a total of approximately 240 employees and external consultants are assigned to the programmes in all the relevant areas. The issues relevant to this report are largely dealt with by the bank's Athens programme (see section 4.1.1).

The Athens programme consists of a number of different sub-units, each with their own responsibilities. The individual sub-units are structured with the aim of establishing clear responsibilities from which each sub-unit has a shared responsibility in a chain process, so that a sub-unit manages a task type, leaving the task handling to the next sub-unit and so on. The procedure, known as the "Factory model", further intends to ensure, as far as possible, a uniform and effective case processing that covers all relevant stages of the project from the initial analysis to the disbursement of compensation and correction of data in the bank's debt collection systems. The model is used by the bank to handle both the four root causes and the additional issues.

Since the project started in 2019, the bank has also worked on timetables, which include calculation and disbursement of compensation, correction of data in the bank's systems, and implementation of the necessary adjustments to IT systems and work processes to remediate its debt collection. At present, the bank has completed the calculation of all compensation amounts related to root causes 1-4 and only the disbursement of the calculated compensation in court cases and cases in which the bank has not been able to disburse the compensation amount because it does not have information about the customer's NemKonto account etc. (see Section 3.5) remains outstanding. In addition, the bank plans to complete the disbursement of compensation amounts related to some of the additional issues (issue 10 and issue 2) during the first quarter of 2022. The bank expects to have completed its analyses of the now known additional issues in the fourth quarter of 2021 and the first quarter of 2022.

As described in section 4.2, we believe that the bank's timetable is subject to uncertainty in several areas, among other things because of the additional issues identified and the fact that the bank is seen to be highly dependent on knowledge, which as stated by the bank, is gathered with few key persons with experience and knowledge of the bank's systems etc. In particular, the fact that a number of the identified additional issues have not yet been fully analysed and mapped makes it difficult for the bank to set a detailed timetable without a significant degree of uncertainty involved. In our opinion, this uncertainty is a natural consequence of the extent and complexity of the overall issues identified in relation to the bank's debt collection.

As can be deduced from the bank's timetable, disbursement of any compensation amounts and correction of debt balances for the bank's customers in relation to all known additional issues will probably extend to most of 2022 and parts of 2023. Similarly, it is likely that the bank will not have taken the measures, including system adjustments that are necessary to finally being able to resume debt collection until during 2023.

We note that the bank's decision-making committee for the project has not approved a timetable for the payment of compensation to customers who may have been subject to overcollection that extends into 2023. This is because, as far as we can see, the bank is looking into the feasibility of making compensation payments in 2022.

### **3.2.1      *Assessment and observations***

In general, we believe that the bank has established a comprehensive organisation that works purposefully and organised to comply with the orders issued by the Danish FSA by way of its decision of 21 September 2020 and with a view to generally ensuring compensation to the bank's customers and remediating the bank's debt collection. The bank's organisation and business procedures support stable progress with the work and high quality in the performance of the tasks that fall within the scope of the individual programmes. In this connection, we believe that within the individual programmes, work is being done on the basis of well-defined mandates with regard to the limitation of roles and responsibilities and in which decisions in the various forums (councils, panels, etc.) are documented in writing.

Thus, during our investigation, we have not observed cases where the general organisation of the individual sub-units of the programmes organised by the bank (see section 4.1) does not appear to have been suitable for addressing the problems in an appropriate manner.

As described below, we have no basis for concluding that the work could have been carried out much faster by adding additional resources without increasing the risk of errors.

As described below, in connection with our inspection, we have observed a number of general matters that it would be expedient for the bank to adjust to ensure, among other things, that the bank responds faster to the information it obtains on an ongoing basis in connection with its own investigations and to ensure that that the bank regularly performs more holistic analyses in relation to the impact of the individual errors and their interdependencies in order to identify potential additional errors related to debt collection as quickly as possible.

As stated above, the bank's organisation and business procedures support stable progress in the work and high quality in the performance of the tasks that fall within the individual programmes.

However, in connection with our work, we have identified a risk that the bank's methodical approach, together with the formalised decision-making processes, does not always support the bank's handling and responding to new knowledge as quickly as possible. As an example of this, the bank only from end-May 2021 decided again to treat all customers in the debt collection systems as potentially affected by errors, and that this decision was not finally implemented in the systems until 5 July, from which date all debt collection customer were again covered by the current preventive measures to safeguard

against continued or future overcollection. In this connection, we note that, in our assessment, the bank had already during the spring of 2021 enough of an overview of a number of the additional issues to have realised that these issues could affect the balance of the debt that was collected from customers whose cases had previously been manually corrected for errors due to the four root causes. In our opinion, the bank should therefore earlier than June 2021 have made the decision to again treat these cases as flawed.

We also note that the bank's process for preparing and sending letters means that all customers were only informed relatively late about the risk resulting from the identified additional issues. We understand that this process, in which the last approx. 60,000 customers are not expected to be notified until the end of October 2021, is, among other things, due to errors in the bank's flow of letters. In this connection, the bank has further stated that, in relation to the order issued by the FSA on 21 September 2020 concerning notification to customers of the additional issues identified, it has prioritised that the customers should as far as possible in the same letter receive information about several issues. For the individual customer, this should cause the least inconvenience then receiving communications from the bank. In this connection, we acknowledge the bank's considerations regarding the consideration of individual customers who do not have to receive unnecessary many letters from the bank. However, in view of the fact that the analyses of the additional issues for a number of persons were completed at the beginning of 2021, the bank should probably have ensured faster communication, at least to the customers who had previously received a letter stating that their cases were not affected by errors.

As stated above, we believe that these observations can be attributed, among other things, to the work approach adopted by the bank, which entails that decisions must be approved at many levels and under which the work on sub-issues has in some cases led to that the bank not making more holistic assessments of the need for action until late in the process.

As stated above, it is likely that the bank's work on compensating customers and remediating debt collection for all additional issues will extend into 2023. We note that as many matters remain unresolved, the overall timetable is still associated with uncertainty.

In this connection, we have no basis for concluding that the bank, by adding additional resources to the task of analysing and handling the additional issues, could ensure completion of the work now planned at a significantly earlier point in time. In this connection, it should be noted that, as far as a number of the issues in question are concerned, the bank is found to be highly dependent on knowledge, which, according to the information provided by the bank, is gathered with a few key persons in the bank. In our opinion, this constitutes an independent risk in relation to the bank's current timetable for the overall remediation of the debt collection. At the same time, it should be noted that the bank has already allocated considerable resources (both internal and external) to the debt collection work, and that we have not found grounds for criticising the bank's assessment of the adequacy of these resources in relation to the project organisation's ability to carry out the remediation work efficiently and with the least possible risk of error. Especially in relation to the latter, it should

be noted that the complexity of work, including the interdependencies between the identified sources of errors, is likely to create a natural upper limit to the number of parallel processes that the bank can control without significantly increasing the risk of further errors.

The bank has focused heavily on complying with deadlines, including in relation to the individual tracks where the bank has identified errors in debt collection. This targeted approach may have meant that the bank has not been able to give sufficient priority to a more holistic and thorough analysis with the aim of handling the errors detected, including their causes and the consequences that they have. Such an overall analysis could possibly have resulted in a broader and more holistic understanding of the interdependencies between the various issues, including the identification of several of the additional issues earlier. For example, only at the end of September 2021 did the bank register an internal event (ORIS reporting) about a potential issue related to the size of court fees and other legal fees in cases in which the bank had submitted a claim against or levied execution against a customer and where the debt may have been incorrectly calculated due to the other errors. In this connection, a more holistic analysis would probably have previously revealed that, as a result of the other errors detected in a number of cases, the legal fee in these cases must have been calculated incorrectly.

### **3.3 Preliminary measures against overcollection etc.**

Since 2019, the bank has identified four root causes of errors in its debt collection (see section 5) and 28 additional issues (see section 9) that could potentially lead to errors. Several of the identified additional issues include errors, which are similar in scope and nature to the four original root causes. The errors and issues identified result in a risk that the debt registered in the debt collection systems is not calculated correctly and that customers may therefore upon continued repayment of their debt, end up having paid more to the bank than they actually owe.

As described in section 6, the bank has taken various steps to prevent errors in its debt collection systems from causing further overcollection of the bank's customers.

In the summer of 2019, the bank implemented a so-called red/green check, providing all cases in the bank's debt collection systems (DCS and PF) with a flag to signal if a case had been manually checked and recalculated to the effect that it no longer was affected by one or more of the four root causes.

The bank has informed us that all customers registered in the summer of 2019 with active cases in the bank's debt collection systems in Denmark (i.e. cases with outstanding debt registered and thus potential risk of future overcollection) at this point in time were flagged as red and that all new cases have since been flagged as red. In this connection, a red flagging indicated that the case had not yet been manually checked and recalculated for errors due to the four root causes. The flagging was intended to indicate to the case officers at the bank that no debt collection action may be taken towards the customer without checking and recalculation/correction of the case having been made first. The

system meant that once a case had been checked and corrected, it would be flagged as 'green', and debt collection could then be initiated by the bank's case officers.

On 2 June 2021, the employees of the bank were informed that all cases in the bank's debt collection systems were again to be considered potentially incorrect, regardless of whether the cases had previously been manually corrected, and on 5 July 2021, the red flagging was again implemented in the systems in all debt collection cases. The bank thus no longer relies on the previously executed red/green checks, and the bank has also stated that as a result of this, legal action or submission of claims no longer takes place in bankruptcy/probate cases, unless specific circumstances call for this.

In relation to red/green checks, debt collection measures have included litigation, execution and filing with the bankruptcy/probate court (bankruptcy, estates of deceased persons, debt relief, etc.). However, the red flagging has not prevented the customer from making repayments under payment agreements or in any other way in order to settle the debt, and the flagging has thus not in itself protected the customer from being overcollected in incorrect cases. However, a measure to prevent the risk associated with repayments from customers was later introduced by the Pause logic in the autumn of 2020, see below.

By its decision of 21 September 2020, the Danish FSA ordered the bank to stop debt collection at no cost to its customers if the risk of overcollection in relation to the individual customer could not be characterised as insignificant. Prior to receiving the order, the bank had by letter dated 10 September 2020 notified the Danish FSA that it intended to implement a partial suspension of repayments from customers who met their agreements with the bank to regularly pay instalments on their debt and whose cases could be affected by errors.

In immediate continuation of the order, the bank implemented the so-called Pause logic, which supplemented the red/green checks by also suspending payment agreements and rejecting payments into open debt accounts if, in the bank's opinion, there was a risk of future overcollection and if the risk could not be characterised as insignificant.

The Pause logic, which at the time of our publishing of this report is still applied by the bank, implies automatic suspension of payment arrangements in cases that are flagged as red in connection with the red/green checks, see above. However, the suspension is not made until the customer's payments into the account has resulted in the repayment of at least 60% of the initial opening balance that was transferred to one of the debt collection systems when the debt collection was initiated.

In the autumn of 2020, the bank's customers were by individual letters informed of the risk of errors in the bank's debt collection systems, and customers in all the cases that were red-flagged at the time were given the opportunity to suspend their repayments entirely, even though their repayments had not resulted in the 60% threshold described above being exceeded. The first letters were sent in October 2020. As described above, the automatic suspension of the bank's debt collection did not, however, take effect until this threshold was exceeded.



Finally, as of 1 October 2020, the bank stopped calculation of interest for all active customers in the debt collection systems<sup>1</sup>. In cases outsourced to debt collection agencies, the Pause logic has been implemented since September 2020, according to the information provided, so that all debt collection is suspended regardless of the amount of payments already made by the individual customer.

In addition to the above measures, the bank has, according to the information provided, withdrawn all current cases from the courts from 17 December 2019 to March 2020 or made manual corrections to the claims submitted in the cases, including claims submitted to the bankruptcy/ probate court, so that the cases have not been affected by errors due to the four root causes. Due to errors in the manual correction process for cases in the PF system, however, at the beginning of 2021 a number of cases in this system were corrected and resubmitted, which is dealt with by the bank as one of the additional 28 issues.

In the period from June 2019 to June 2021, the bank has, according to the information provided, manually reviewed and adjusted approx. 9,000 cases in the DCS and approx. 4,000 cases in the PF as part of the red/green checks. The cases have been flagged as green on an ongoing basis to the effect that the cases have not been covered by the Pause logic introduced in September 2020 and that the cases may have been subject to active debt collection.

However, as a result of the many additional issues (currently 28), the bank decided end-May 2021 that all cases in the bank's debt collection systems were again to be considered potentially incorrect, regardless of whether the cases had previously been manually corrected. The bank's employees were informed of this on 2 June 2021, and effective from 5 July 2021, the cases were again flagging as red. This means that all debt collection cases are again covered by the Pause logic, including to the effect that interest accrual has again been suspended with effect from 1 October 2020 and the collection of instalments is automatically suspended when the customer's repayments result in the 60% threshold described above being met or exceeded.

In connection with the new red flagging in June 2021, the bank has prepared and sent out new letters informing customers of the continuing risk of errors, however all customers are not expected to be informed until the end of October 2021 due to delays in the bank's process. The bank has also informed

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<sup>1</sup> We note that on 28 October 2021, the bank informed us of challenges associated with the technical implementation of interest accrual suspension in the PF system. In this connection, the bank has informed us that the interest accrual suspension is therefore implemented as a manual correction at customer level and not via the system. It is unclear to us at this stage whether this entails a risk that payments from PF debt collection customers made in the period after October 2020 may have been used to cover interest that the bank has otherwise indicated to its customers that it would not charge, and whether, due to the lack of technical implementation in the PF system, interest amounts that the bank has indicated that it would not charge are still being reported to the tax authorities. We understand that the bank will investigate this and that customers – if this is the case – will receive full compensation. Since the information about accrual of interest in the PF system was received close to the submission date for this report, it has not been possible for us to clarify the situation further.

us that in May 2021, it decided to withdraw all cases from the courts, whereas in September 2021 the decision was made to withdraw claims submitted under bankruptcy/probate cases submitted after a manual adjustment initially for only the four root causes. According to the bank, all cases were withdrawn from the courts in the autumn of 2021, with the exception of six complicated cases that the bank is analysing separately. On the other hand, the process of withdrawing claims submitted in bankruptcy/probate cases has not yet been completed, among other things because of complications in the process necessary to identify relevant cases. It is our understanding that the bank expects to have completed the withdrawal in the fourth quarter of 2021.

As described above, the Pause logic, based on the described 60% threshold, is still in use at the bank. However, we note that the bank has informed us that on 15 October 2021, it decided to change this Pause logic, so that all payment agreements were automatically suspended, regardless of the amount of payments already made by the individual customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved. In this connection, the bank expects in November 2021 to inform customers who have repaid less than 60% of this suspension, and the bank will also inform customers that they risk overcollection if they nevertheless choose to continue repayment of their debt. In the latter case, the bank will also inform customers that they may later expect to receive compensation if continued repayment results in payment of more than the actual, legally enforceable debt. According to the information provided, the bank expects the automatic suspension of payment agreements regardless of the 60% threshold to take effect on 1 December 2021.

### **3.3.1 Evaluation and observations**

#### **3.3.1.1 Summary**

In general, we note that, from the time of the identification of the four root causes to today, the bank has introduced a number of relevant measures to ensure that customers are protected against wrongful debt collection. These measures include the red/green checks stated above in connection with manual correction of the cases that could be affected by root causes 1-4 and the Pause logic described above applicable to red-flagged cases.

The orders in the Danish Financial Supervisory Authority's decision of 21 September 2020 imply that the bank has been obliged to ensure that the debt collection was suspended vis-à-vis the individual customer unless the risk of overcollection was insignificant.

As far as the red/green checks are concerned, we believe that checks have largely worked as intended, but in a number of areas, errors have occurred in the bank's case handling, including in connection with manual corrections where the bank has occasionally detected high error rates.

In our opinion, the checks have in principle been suitable for ensuring that the bank did not initiate debt collection proceedings before the courts, including submission of claims in bankruptcy/probate

cases against customers that could have been affected by the four root causes, unless it had been ensured that the debt had been correctly calculated.

However, as described below, the red/green checks have not taken into account the additional issues identified by the bank, which led to the bank's decision to treat all cases, including the cases previously flagged as green, as red cases and thus erroneous, with effect from end-May. The bank's employees were informed about this on 2 July 2021, and the technical implementation was made in the debt collection systems on 5 July 2021. In this connection, it should be noted that the bank probably could and should have made this decision earlier, since, at least in the spring of 2021, the bank had such knowledge of the identified additional issues that the bank should have realised that a manual correction of the balance for errors due to the four root causes was not sufficient. As described below, this has, among other things, resulted in the reporting of incorrectly calculated debt in a number bankruptcy/probate cases, and consequently, remediation work must be carried out in this respect.

We note that the bank no longer relies on the previously executed red/green checks and that, generally, legal action or submission of claims no longer takes place in bankruptcy/probate cases. The bank has also informed us that end-May the bank made a decision to withdraw all cases from the courts, whereas on 23 September 2021, the decision was made to withdraw claims submitted under bankruptcy/probate cases. On 10 May 2021, the bank also decided that the previous green cases should be reviewed for the purposes of quality assurance, which, according to the information provided, is expected to include a recalculation using the bank's compensation models for the four root causes. According to the information provided, the bank expects to initiate this process in the fourth quarter of 2021.

In addition, we believe that the bank, with the Pause logic introduced in the autumn of 2020, has taken a relevant step to counter the risk of overcollection as a result of root causes 1 and 2, because payment agreements with the bank's customers as described above were automatically suspended at the time when, according to the bank's analyses, the risk of overcollection was no longer insignificant. As from that date, the bank's customers have had to contact the bank actively to continue the repayments, and in this connection, customers have received guidance on the risk of future overcollection. At the same time, all customers have been given the opportunity, regardless of the amount of payments already made in the past, to suspend their repayments entirely without interest accruing on the debt<sup>2</sup>.

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<sup>2</sup> We note that on 28 October 2021, the bank informed us of challenges associated with the technical implementation of interest accrual suspension in the PF system. In this connection, the bank has informed us that the interest accrual suspension is therefore implemented as a manual correction at customer level and not via the system. It is unclear to us at this stage whether this entails a risk that payments from PF debt collection customers made in the period after October 2020 may have been used to cover interest that the bank has otherwise indicated to its customers that it would not charge, and whether, due to the lack of technical implementation in the PF system, interest amounts that the bank has indicated that it would not charge are still being reported to the tax authorities. We understand that the bank will investigate this and that customers – if this is the case

On the basis of the bank's analyses, within a 97.5% confidence interval, the 60% threshold of the Pause logic implied that the customer would be protected against overcollection as a result of root causes 1 and 2 in the debt collection system DCS. As described in section 6 of this report, we have not seen any documentation evidencing that the 60% threshold implied the same high level of assurance that customers would not be overcollected in cases processed in the debt collection system PF. On 28 October 2021, the bank informed us that as a consequence of this the bank had carried out an analysis of cases in which payment of compensation to customers had been made from the PF system and that the bank concluded that the 60% threshold was sufficient for the PF system as well.

Furthermore, we have not seen any documentation evidencing that the bank has considered whether the 60% threshold stated was sufficient for customers which could be affected by root causes 3 and 4, nor have we seen any documentation evidencing that the bank has continuously considered, in the period from September 2020 onwards, whether the threshold was still relevant and adequate, including after the bank had completed its analyses of many of the additional issues that caused errors in relation to debt collection.

As a result of the above, we have no basis for concluding that the risk of overcollection resulting from the additional errors is or has been insignificant in relation to the customers, particularly those affected by root causes 3 and 4 and additional issues, which within the framework of the Pause logic have continued to make repayments to the bank on an ongoing basis or have continued to make repayments after the 60% threshold had been reached without them being informed of issues other than the four root causes. In this respect, it should be noted that these customers did generally not receive individual information about the additional issues identified in relation to debt collection until September and October 2021.

We have noted that, on 15 October 2021, the bank decided to extend the Pause logic so that all payment agreements are automatically suspended, regardless of the amount of payments already made by the customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved. We have also noted that the bank intends to implement the decision with respect to the affected customers at 1 December 2021. At the same time, we have noted that all customers – to the extent that the bank has relevant contact information – will, according to the information provided, be informed of the additional issues by the end of October 2021. Against this background, we believe that the risk of future overcollection from the affected customers after 1 December 2021 should be considered insignificant if the bank's decision is implemented as stated.

We have also noted that, despite previous checks, the bank has not been able to rule out the that some of the customers registered with RKI at the bank's request have been wrongfully registered, among other things because the customers' debt is affected by one or more of the additional errors

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– will receive full compensation. Since the information about accrual of interest in the PF system was received close to the submission date for this report, it has not been possible for us to clarify the situation further.

identified in relation to debt collection. In this connection, we have noted that, on 22 October 2021, the bank decided to withdraw the registration of customers from RKI in cases where the risk of errors cannot be ruled out and that, according to the information provided, the bank will initiate a dialogue with Experian A/S (owner of RKI) on this matter. According to the information provided, the bank expects to be able to inform the affected customers of the withdrawal by the end of 2021.

It should also be noted that neither the red/green checks nor the Pause logic completely safeguards the bank's customers against the disadvantages that may arise from the fact that the customers are registered with an incorrect and overstated debt in the bank's systems. These disadvantages apply particularly to customers who are still registered in the bank's debt collection systems with an outstanding debt, but for which the bank's compensation model has assessed that the customer is entitled to compensation and for which the debt in the account must therefore be assumed to have been paid.

### *3.3.1.2 Observations regarding the bank's red/green checks*

Overall, we believe that the bank by the described red/green checks has implemented significant measures to counter the risk of debt collection being initiated or claims being submitted with the ordinary courts or bankruptcy courts at the bank's initiative without the claim first having been reviewed and corrected for errors due to the four root causes.

We understand that, although the bank treats all debt collection cases as potentially incorrect again and has flagged all cases red again from 5 July 2021, customers may have been subject to debt collection in a bankruptcy/probate court case or a claim may have been submitted to the courts while the case was flagged green for a period of time. In this connection, at the end of May, the bank decided to withdraw all cases from the courts, whereas on 23 September 2021 the decision was made to withdraw claims submitted in bankruptcy/probate cases. According to the bank, all cases were withdrawn from the courts in the autumn of 2021, with the exception of six complicated cases that the bank is analysing separately. The process of withdrawing claims submitted in bankruptcy/probate cases has yet to be completed, among other things due to the complexity involved in identifying these cases. It is our understanding that the bank expects to have completed the withdrawal in the fourth quarter of 2021.

As described in section 6.3 of this report, the manual adjustment of cases in connection with the red/green checks has in the period since the summer of 2019 had a high percentage of errors as found by the bank's own random checks. According to the bank, however, the error rate has been reduced since October 2020, when standardised manuals, checklists, etc. were implemented.

We have not received an overview of the specific errors, which, according to the bank, may include both actual errors in the calculation of the debt and documentation of the manual correction made. As appears from minutes of meetings in the bank, in December 2020, the bank was aware of the high error percentages and that sample were taken at the time for the purpose of reassessing selected cases.

However, we have not gained insight into the sampling process and the decisions that were made in the bank on the basis of the samples. On the basis of the information available, we cannot therefore rule out that there may be errors in corrected cases that may have formed the basis for enforcement proceedings, forced sales and claims in bankruptcy/probate court cases.

However, on 10 May 2021, the bank decided that cases that had previously been manually corrected (flagged as green) must be subjected to quality assurance, which, according to the information provided, is expected to include a recalculation via the bank's compensation models for the four root causes. According to the information provided, these cases have therefore been transferred to the bank's QA team and are expected to be checked using the models described in section 7 of this report, which have been used to calculate compensation due to the four root causes. We have not received a detailed description of the process planned for this work, but the bank has stated that it expects the process to be initiated in the fourth quarter of 2021.

According to the information provided, there are approximately 9,000 cases in the DCS and approximately 4,000 cases in the PF that have previously been manually corrected for errors due to the four root causes, and flagged red again as a result of the identified additional issues relating to debt collection.

### *3.3.1.3 Observations regarding the Pause logic (60% threshold)*

In addition, we believe that the bank, with the Pause logic in autumn 2020, has taken steps to counter the risk of overcollection as a result of root causes 1 and 2.

Based on the bank's analyses, the 60% threshold in the Pause logic implies, within a 97.5% confidence interval, that the customer will not be overcollected as a result of root causes 1 and 2.

In our opinion, the Pause logic for customers registered in the DCS has sufficiently reduced the risk of overcollection due to root causes 1 and 2, when considering that the individual customers in October 2020 were offered to stop their repayments at no interest costs.

As described in section 6 of this report, the 60% threshold has been determined on the basis of calculations from the compensation model for customers in the DCS system who have been affected by root causes 1 and 2. The 60% repayment threshold is also applied to cases in the PF system, however, and in this connection it is not documented to us on which basis the bank concludes that the customer population in the DCS and PF, respectively, is uniform to such an extent that a study of a population in the DCS can form the basis for an assessment of the efficiency of the 60% threshold in the PF. On the basis of the available documentation, we cannot conclude whether the threshold in the PF cases is sufficient to safeguard customers against future overcollection. On 28 October 2021, the bank informed us that as a consequence of this the bank had carried out an analysis of cases in which payment of compensation to customers had been made from the PF system and that the bank concluded that the 60% threshold was sufficient for the PF system as well.

In particular, as regards root cause 4, we note that, in our opinion, the 60% threshold will not protect the customer against overcollection if the debt has already been paid by a co-debtor. Similarly, the threshold will not protect customers from overcollection due to root cause 3 if the customer is a guarantor and if the customer is not liable for the entire debt registered. At our request, the bank has confirmed this to be correct. The Pause logic is thus not seen as leading to any safeguard that these customers may not be overcollected in future if the customers choose to continue paying under a payment agreement or in any other way. According to the information provided, in September 2021, the bank identified approx. 5,800 customers with open cases that may be affected by root cause 3 or 4, and in our opinion, the bank will be able to limit these cases and to introduce a complete stop to repayments in cases where the customer does not request to continue payments after being guided about the risk. See section 6.4 of this report for details. We note that the bank expects at 1 December 2021 to implement automatic suspension also in these cases.

As described, the Pause logic was implemented in the autumn of 2020 to counter the risk of overcollection due to root causes 1 and 2. However, as described above, the bank has on an ongoing basis identified a number of additional issues which, according to the bank, are the reason why the bank has decided to red-flag all cases again end-May and thereby to include them in the Pause logic. The bank's employees were informed of this on 2 June 2021, and effective from 5 July 2021, the cases were again flagging as red in the systems. In this connection, we have been informed by the bank that the interest accrual suspension at 1 July 2021 has been implemented retrospectively as at 1 October 2020 and that the bank will compensate customers for any repayment that may have been made to cover the interest accrued in the meantime.

We have not received any documentation to the effect that the bank, by implementing the Pause logic in the autumn of 2020 or on an ongoing basis thereafter, has decided whether the identified additional issues, see section 9 below, may affect the size of the debt in such a way that this gives rise to also adjust the 60% threshold or to completely stop debt collection. Thus, the bank has taken special measures to prevent future overcollection only in relation to a number of individual issues, including for example in relation to customers whose cases have been submitted to a debt collection agency.

In our opinion, the existence of the many additional issues identified will lead to a certain increase in the risk that a 60% threshold in each case will not prevent overcollection, and the bank has not documented to us that it has demonstrated, by calculations or estimates on a satisfactory basis, that the 60% threshold continues to provide such safeguard that the risk of overcollection is in all cases is insignificant in cases where the customer continues to repay his or her debt. This risk is increased by the fact that the additional issues have only been analysed at a general level and that analyses have not been made for all errors identified. Consequently, the consequences for the individual customers or group of customers of the individual issues have not yet been clarified.

In relation to the above, we note that the bank has informed us that on 15 October 2021, the bank decided to change the current 60% Pause logic, so that all automatic payment agreements are fully

suspended, regardless of the amount of payments already made by the customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved. In this connection, during November 2021, the bank expects to notify customers whose payments are below the 60% threshold of this suspension and the option of continuing to pay off the debt, whereas customers who have already decided to continue their repayments after the present 60% threshold has been exceeded will receive an information letter. According to the information provided, the bank expects the automatic suspension of payment agreements in cases in which customer payments are currently below the 60% threshold to take effect on 1 December 2021.

#### *3.3.1.4 Observations regarding the bank's notification to customers of the risk of errors*

The bank has informed us that in the autumn of 2020, immediately following the order issued by the Danish FSA on 21 September 2020, letters were sent to the bank's customers informing them of the risk of errors and that the customers could suspend repayment free of charge.

These letters from the autumn were on an ongoing basis followed up with guidance to the customers whose ongoing repayments had resulted in the customer coming close to the 60% threshold implied by the Pause logic.

According to our information, the proportion of customers whose cases were already manually checked and corrected for errors due to the four root causes as part of the red/green checks in the autumn of 2020 will, however, have received a letter stating that they are not (or are no longer) affected by the errors in the bank's debt collection. This also applies to customers whose cases after the implementation of the Pause logic in September 2020 have been flagged as green in connection with the manual checks and correction for errors due to the four root causes.

As additional issues have been identified on an ongoing basis that may affect the calculation of the customer's debt, as described above, the bank has decided to flag all cases in red again as from the summer of 2021, and as a result, the bank has initiated a process for communicating with the bank's customers in this respect.

Due to errors and delays in the bank's letter process, approximately 60,000 customers – including estates of deceased persons and bankruptcy estates – are expected to be informed of the risk resulting from the identified further errors in the debt collection at the end of October 2021. We thus note that up until the end of October 2021 the bank's information letters have led some customers to believe that they were not affected by the errors in the bank's debt collection, even though the bank since the spring of 2021 has had enough of an overview of a number of the additional issues to have realised that these issues could affect the individual customer's case.



### 3.3.1.5 *Other observations*

As described above, we note that due to the errors found in the bank's debt collection systems, a significant number of customers will still have been registered with an incorrectly calculated debt – also after the bank has paid compensation to the customers who have been subject to overcollection as a result of the errors.

The methodology behind the bank's red/green check and Pause logic therefore does not completely safeguard the bank's customers against the disadvantages that may arise from the fact that the individual customer is registered in a collection system as debtor with an incorrectly calculated debt. For example, in connection with borrowing or other processes, customers may have difficulty in documenting the amount of debt on which they are making repayments to the bank. Further, the bank will have reported erroneous information to the tax authorities on behalf of the customers, which may affect the customer's ability to document to other financial institutions than the bank whether the customer still owes money to the bank and if so, the amount of the debt.

In relation to customers reported to RKI by the bank, it cannot be ruled out that customers affected by one or more of the additional issues identified, including, for example, the problem of errors in the bank's communication with debt collection agencies, see section 9.4.13 below, may wrongfully be registered in RKI or that a registration that the bank was entitled to make has been maintained for too long. In this connection, we note that on 22 October 2021, the bank decided to withdraw the registration of all customers from RKI in cases where the risk of errors cannot be ruled out and that the bank, according to our information, would start a dialogue with Experian A/S (owner of RKI) about this.

## 3.4 **Calculation of compensation for overcollection due to the four root causes**

In the process of compensation, the bank has defined the customers who may be affected by one or more of the four root causes and who, for this reason, may have been charged a larger amount than the amount actually owed by the customer to the bank. In this connection, the bank has assessed that customers with debt raised outside Denmark (foreign customers) and customers in Denmark with cases closed without the customer having made any repayment are not at risk of overcollection due to the four root causes, and these cases are therefore not recalculated for the purpose of assessing whether the customer has suffered such a direct loss as a result of such overcollection.

It should be noted, however, that interest and fees may also have been merged with the principal/and or registered with an incorrect limitation date in the DCS system in branches outside Denmark, even though, according to the information provided, it has not resulted in wrongful debt collection for the bank's customers in these countries. Thus, the risk of errors and wrongful debt collection *may* arise if these matters are not continuously addressed by in whole or in part by the manual procedures described by the bank. Refer to Section 5.2 of this report. We also note that the bank is currently

considering initiating a new investigation at the branches outside Denmark for the purpose of identifying whether one of more of the identified additional issues may have led to errors locally.

For the other customers in the bank's debt collection systems DCS and PF, the bank has recalculated the case to assess whether the customer could be entitled to repayment/compensation as a result of overcollection due to the four root causes.

Most cases have been analysed via data models, while a small proportion of cases have been assessed manually due to complexity or insufficient data basis.

In this connection, the bank has established some principles that, according to the information provided, have been followed, regardless of whether the case has been assessed manually or via data models. The principles imply, among other things, that the bank will put the customer financially as if the errors had not been made and that the bank will pay compensation to customers on the basis of data that goes as far back as possible. If there is no exhaustive information about a customer's case, the bank will use the assumptions in favour of the customer. In this connection, the bank has stated that the customers' repayment claims are calculated and paid out, even though the customer's claims against the bank is obsolete under the law of property.

For the purpose of assessing the compensation question in relation to root cause 1 (principal amount, interest and fees merged) and root cause 2 (incorrect limitation date in the DCS), the bank has separate data models for the recalculation of cases in the DCS and the PF, respectively, developed. The models, which are described in more detail in section 7, are basically structured in such a way that the bank attempts to determine or estimate the original distribution of interest, fees and principal amount applicable at the time of the creation of the case in the DCS or the PF. This information is obtained either directly from the banking systems or from sources outside the bank's systems (e.g. from report extracts of account statement) or from estimated calculations. Based on an adjusted allocation of the principal amount, interest and fees, the models recalculate the case history in the relevant debt collection system (DCS or PF) and check whether the account has been paid after the date on which the debt was wholly or partly obsolete and, if so, when and by what amount this has been done. In this context, the models take into account to a large extent the registered time-barring events which have occurred during the period during which the debt was being collected by the bank.

When the bank has established or calculated that the customer has or may have repaid time-barred debt at a given amount, both models contain mechanisms that take into account whether the repayments that have covered time-barred debt could instead be used to cover another outstanding debt on the account. Only then will the model assess whether the customer is to have a repayment of an amount. In the DCS model, this redistribution of payments is made as part of the recalculation of the case history, while the model description for the PF model describes this as a final set-off of the current outstanding debt. Thus, different methods are used in the DCS model and PF model, but the result is that in both models, an amount is paid to the customer only if the account does not hold legally enforceable outstanding debt that the amount could cover.

In relation to the above, we note that the recalculation is carried out in models alongside debt collection systems and that this does not alter the information recorded about the debt in the systems. The set-off or recalculation of amounts provided in the data models is thus not shown in the debt collection systems and will not be visible to the customer until after the data has been corrected (the so-called "write-back").

A proportion of customers in the DCS system may also be affected by root causes 3 and 4, which deal with incorrect registrations of guarantors and co-debtors in connection with the transfer of cases from the bank's previous debt collection systems in 2004. In addition to the recalculation in the data model above, these cases have also been manually screened to determine whether these additional root causes may have led to the customer being overcollected. For a substantial part of the total of approximately 11,000 customers, the bank has been able to rule out overcollection at the initial screening, for example because the customer has not made any repayments or because it has been confirmed that customers have been registered correctly.

In some 1,180 cases, the bank has not been able to rule out overcollection due to root cause 3, and these cases have therefore been selected for manual review for further analysis. However, where, as a result of root cause 4, overcollection could not be immediately be ruled out, the bank has used a calculation model which, taking into account the total payments made by the co-debtors, has examined whether the customers have paid more than the total debt transferred to the DCS debt collection system when the debt collection was initiated. If so, the bank has calculated the overcollected amount and added to it an amount equal to the current interest on the overcollected debt. Finally, a time compensation has been added, which according to the model description is calculated from the date when a payment is first made on several of the co-debtor's accounts in the DCS and until disbursement by the bank.

The bank has stated that not all cases could be assessed using the models described, including because of poor data quality, and that cases with estimated disbursement of more than DKK 10,000 are in all cases reviewed and validated manually. For customers who may be affected solely by causes 1 and 2, and who have not been able to be assessed using the DCS model or the statistical model, the bank has decided to pay out any amount paid by the customer to cover that part of the debt that exceeds 60% of the original DCS balance. The threshold corresponds to the threshold set in the Pause logic used so far by the bank to protect customers from future overcollection.

For the approximately 5,300 customers whose cases have been selected for manual handling by the bank's QA team due to complexity or insufficient data in the systems, we have noted that the bank reviews these cases manually and that the process for root causes 1 and 2 in the DCS to a large extent matches the procedure for manual corrections performed by the bank's correction team. For other cases, including cases in the PF system and root causes 3 and 4, on the other hand, we have very limited insight into the bank's approach.

The bank has described that when compensation is made to customers who are deemed to have been overcollected due to the four root causes, a time compensation is added for the period during which the amount could have been available to the customer. According to the bank, the time compensation is calculated according to section 5 of the Danish Interest Rate Act, from the first repayment after the time-barring of debt in the account until the date of compensation. The interest rate is thus calculated from the earliest repayment that has covered obsolete debt, regardless of whether the overcollection has been made via current payments in the account, and the interest rate is selected based on the date of the first overcollection.

After the customer's case(s) has/have been recalculated in the above models, the bank will send a letter to the customer and inform the customer of the payment of compensation. When compensation is made, the customer is informed of the compensation and that the amount will be paid out within 14 days. The bank's letters also explicitly state that the assessment of the repayment requirement is based on either the statistical model or the bank's business decision. It is also stated that the customer can report any further or indirect losses via the bank's website, and that the bank is in dialog with the Danish tax authorities as to whether the customer is liable for tax on the repayment and the compensation amount, and that the bank will cover this. According to the information provided, the bank has thus determined a principle according to which it will compensate customers for any tax claims that the customers may be met due to repayment and compensation by the bank.

The loss calculation described above is based on a model of *direct* loss in accordance with the bank's principles. The bank has also established a procedure for processing claims based on *indirect* losses. Such losses may be reported via the bank's website, and the bank has set up a panel to assess such notified claims. As stated above, at September 2021 only some 43 claims for indirect loss had been received.

We refer to section 7 of this report for a description of the bank's compensation models.

### **3.4.1 Evaluation and observations**

#### **3.4.1.1 Summary**

As described, the bank has compensated customers who, according to the bank's calculations, are entitled to receive compensation as a result of the four root causes. Such payments have primarily been calculated using the bank's own data models.

Subject to the uncertainty resulting from unresolved matters in the bank's documentation, we believe that overall, the bank's models for calculating compensation show a high degree of probability that the vast majority of customers from whom the bank has overcollected have been identified and that the bank has calculated compensation amounts that mean that customers will receive full compensation for direct losses suffered as a result of overcollection due to the four root causes.

In our opinion, the principles on which the bank's compensation models are based will result in a large proportion of customers receiving a compensation amount that is higher than the compensation amount to which they would be entitled under Danish law and under their agreement with the bank. Among other reasons, this is because the bank compensates customers even though their claims may be time-barred, and in many cases, the bank has made choices, which, in relation to the actual calculation of the compensation amount, will in general be to the advantage of the individual customer.

However, our assessment of the models and the compensation amounts calculated on the basis of these models is subject to some uncertainty because the documentation submitted by the bank describing the models used for recalculating cases and for calculating compensation amounts is preliminary and available only in draft form. The documentation therefore generally does not provide a complete picture of the models and the underlying assumptions and choices.

It should also be noted that, in relation to the calculation of the compensation itself, the bank's data models for root causes 1 and 2 take into account whether the payments that have covered time-barred debt could instead have been used to cover an outstanding debt on the account. The customer will therefore not be fully compensated until any outstanding debt on the account has been offset and they have received relevant amounts. It is a prerequisite for full compensation that the customers' registered outstanding debt on the account that is the basis for the compensation calculation is offset. This was not communicated by the bank to the customers concerned in connection with the disbursement of compensation amounts. The bank does not expect this issue to be resolved before the turn of the year 2021/2022, and a number of the customers who have been compensated will therefore remain registered as having outstanding debt in the bank's systems at the turn of the year. The bank has informed us that such registration will, among other things, be reported to the Danish tax authorities. It is our opinion that the bank should seek to rectify this situation as soon as possible in cases in which the compensation models have shown that the customers in question have no further outstanding debt to the bank in the cases in question.

It cannot be ruled out that, due to the choices made in the models and the uncertainties in the data used, there may be individual customers for whom the models will not lead to the calculation of full compensation for the direct loss incurred in connection with the overcollection of debt caused by the four root causes. This risk relates in particular to situations in which the models are based on assumptions of actual circumstances that cannot be identified for the individual customer because data does not exist, or where the risk relates to cases in which data may exist but is not available in a sufficiently structured form to be used in the calculations without requiring very comprehensive manual case review for a significant number of customers. In this connection, the uncertainty due to the lack of data is most extensive in relation to 'older' cases in which the customers' claims for repayment today in a certain number of the cases may potentially be considered time-barred under the law of property but in which the bank nonetheless chooses to compensate the customers on the basis of its own compensation principles.

Regarding the risk that some customers will not receive full compensation, we note that it is difficult to prevent this completely when the bank does not have at its disposal data that allows a precise calculation to be made. We also note that the bank has stated that in cases in which data can be obtained manually but structured data is not available, no examples of undercompensation as a result of model calculations have been found in the manual spot checks carried out.

It should further be noted that the bank has decided to reimburse the individual customer for any tax payable by the customer in connection with the bank's compensation related to the four root causes. A final model for calculation and payment of this tax-related reimbursement has not yet been established by the bank, and according to the information provided, the bank continues to have a dialogue with the Danish tax authorities in this regard.

Finally, it should be noted that as a result of the additional issues described in section 9 of this report, many customers will not receive full compensation for all errors in the bank's debt collection systems on the basis of the models described, and that the customers concerned may receive further compensation at a later date. Because the additional issues have been identified on an ongoing basis and the mapping of the impact of several of the additional issues on individual customers awaits further analysis, this sequential approach seems to be the best possible approach for the customers. An alternative approach whereby all errors affecting a customer's case are assessed prior to fully compensating the customer would mean that the customer would have to wait until such times as the bank has developed calculation models for compensation in relation to all of the identified additional issues.

#### *3.4.1.2 Observations regarding the bank's DCS model (root causes 1 and 2)*

In our opinion, the bank's DCS model, as described in the model documentation, generally follows the bank's principle that the recalculation should be to the customer's advantage. The model thus relies on a number of assumptions and principles, in which the bank is found to have made choices in case of doubt that would lead to overcompensation of the customer. The model is thus generally assumed to compensate customers to such an extent that they will receive full compensation for the direct loss they have suffered as a result of the overcollection.

We note, however, that the model for the debt collection cases that remain open assumes that any outstanding debt on the account on which the compensation calculation was based is offset later, as the recalculation takes place in models outside the collection system itself. The customer will therefore not be fully repaid/compensated for errors resulting from root causes 1 and 2 until any outstanding debt on the account has been offset and they have received relevant amounts. This offsetting of any outstanding debt on the account has not been communicated to the bank's customers, and the customers will therefore remain registered as having outstanding debt in the bank's systems. The bank does not expect this issue to be resolved before the turn of the year 2021/2022, and a number of the customers who have been repaid/compensated will therefore remain registered as having

outstanding debt in the bank's systems at the turn of the year, which, among other things, will be reported to the Danish tax authorities. It is our opinion that the bank should seek to rectify this situation as soon as possible in cases in which the repayment/compensation models have shown that the customers in question have no further outstanding debt to the bank in the cases in question.

We have found a single assumption in the DCS model which may have led to an incorrect result in the model in some cases and which concerns payments from debt collection agencies. Our enquiries about this have led to an ORIS report at the bank, and we expect that this will prompt the bank to consider the need for recalculating the compensation in some of the cases already processed.

#### *3.4.1.3 Observations regarding the statistical model*

In respect of the DCS statistical model, we note that this has been developed on the basis of the results of the recalculation of approximately 36,000 cases in the DCS model. The cases in question have all been transferred to DCS from the banking systems in 2010 or later. According to the model description, however, most of the customers on which the statistical model is used are characterised by the fact that in September 2004, the cases have been converted into DCS from previous debt collection systems, and there may thus potentially have been a longer period of debt collection and interest accrual before the transfer to DCS. The model is based on the assumption that the two populations of cases have the same characteristics, but the bank's documentation does not contain material that makes it clear that this assumption is correct. The relationship is not described in the bank's model documentation, and we cannot therefore see that the risk related to this has been considered in the model development. On request, the bank has explained this in more detail, and based on the information provided by the bank, we cannot rule out that the use of the statistical model in the converted cases will result in an amount that reflects a correct or conservative estimate in favour of the customer. However, as mentioned above, we cannot see from the model documentation that this relationship has been the subject of separate analysis or consideration in connection with the development of the model.

Disregarding the above-mentioned comments, we believe that the statistical model is most likely to imply a calculation of compensation in the vast majority of the processed cases that will correspond to or exceed the indirect loss suffered by the individual customer. It should be noted, however, that the bank's analyses show that there are a small number of customers for which the collection process prior to the transfer to DCS may exceed one year, and for some customers, the DCS model may use a late limitation date when calculating and assessing the customer's claim for repayment, if any. However, we also understand that a general change to this assumption would probably lead to *significant overcompensation* of a significantly larger number of customers. In this connection, it should be noted that the bank has informed the customers in the letters if the compensation assessment is based on a mathematical calculation and that the letters indicate the option of reporting a further loss. However, the letters do not contain a description of specific assumptions, including the duration of the collection process, and it may therefore be difficult for each customer to assess whether the use of the model has been unfavourable.

#### *3.4.1.4 Observations regarding the bank's model for root causes 3 and 4*

As far as the models for root causes 3 and 4 are concerned, we note that the bank's own model descriptions for both root causes indicate a risk that affected customers may be overlooked, as the bank's search and assessments largely rely on physical documents of older dates. The bank has informed us that the risk is primarily related to root cause 4, where customers can only be identified by physical documents. According to the information provided, the bank has, however, laid down some search criteria, which, according to the bank, provide a high degree of certainty that the relevant customers are identified. We have not gained any detailed insight into this. In the model descriptions, the bank has also pointed out that the risk is mitigated by the option for customers to report additional losses via the bank's website.

It is not possible for us to assess whether the described risk of affected customers being overlooked has materialised and, if so, how many customers may be affected. On request, the bank has informed us that it has not found reason to inform the identified potentially affected customers separately of the fact that they may have been registered as co-debtors in error. However, at the end of September 2021, the bank has stated that it will ensure that the relevant customers have been identified and have received relevant information. However, we have not seen examples of letters or other information that indicates that the bank will inform customers explicitly about the specific risk of errors that result from causes 3 and 4.

In relation to root cause 4 (the risk that several debtors are registered separately for the same debt), we note that, according to the information provided, customers who may be affected by this root cause also count guarantors. As additional analyses are made for this customer type in other contexts, including with regard to compliance with a number of specific requirements for the upholding of guarantee claims, we have asked the bank about this. However, at present, the bank has stated that these customers are assessed for root cause 4 in the same way as jointly and severally liable co-debtors and without the bank having conducted analyses showing whether the rules applying under the law on guarantees have been observed. On the basis of the information provided, the special circumstances that may apply to guarantors in this connection, including, for example, the type of guarantee, whether the guarantor is liable for the entire debt and what has been communicated to the guarantor in annual updates from the bank, etc. have not been taken into account.

#### *3.4.1.5 Observations regarding the bank's PF model (root cause 1 in the PF system)*

We particularly note that the model documentation is still in the draft, and for this reason also in several areas it is very provisional. In the model documentation, the bank describes several types of cases which the model could not process at the time of the description (for example, cases where Realkredit Danmark did not have a first priority mortgage), but for which we have been informed that solutions have been found later to enable the cases to be processed by the model. The bank has informed us that several of the previously exempted case types have nevertheless been processed via



the model, but some case types, as described above, have been complex and have required a more extensive pre-processing of data. Thus, we cannot rule out the possibility that certain case types in the PF model may have been processed in a different way than described in the following sections, and that we cannot assess the bank's approach in this respect.

As regards the PF model, we also note that the model's conclusions are based on a number of estimates and estimated values. It is thus assumed that the model's result in many cases will not reflect the actual overcollection on the loan. However, as the estimates are based on the bank's most conservative/customer-friendly estimates based on business experience, we find it most likely that the model will result in a calculation that is to the customer's advantage as a clear starting point. However, for some cases the assessment is subject to uncertainty as a result of the very preliminary documentation (see the comments above). Thus, it is not yet possible for us generally to express a conclusion regarding the PF model, and we are awaiting clarification regarding the fixing of limitation dates in cases concerning property sales that resulted in a loss.

We refer to section 7.4 of this report for a detailed description.

#### *3.4.1.6 Observations regarding the model for the business decision for root causes 1 and 2 in the DCS*

For customers who may be affected solely by root causes 1 and 2 and whom the bank has not been able to assess using the DCS model or the statistical model, the bank has decided to pay out any amount paid by the customer to cover that part of the debt which exceeds 60% of the initial balance that was transferred to DCS when the case was created. According to the bank's documentation, the model in the majority of the cases expected to lead to overcompensation of the customer. It also appears, however, that based on the results of the DCS model, some customers may be undercompensated using the model selected (customers with low debt in particular). Thus, in the DCS model, there are examples of debt collection claims exceeding 40% of the original transferred debt. We note that in its communication about the compensation to its customers, the bank has chosen to describe the model used and the 60% threshold. However, the risk that compensation may be too low is not stated directly. See sections 3.5 and 8.2 of this report for more information about the bank's communication.

#### *3.4.1.7 Observations regarding the bank's model for calculating time compensation in connection with compensation*

The bank has informed us that customers who have repaid too much will receive a refund of the excess paid, plus compensation for the period during which the money should have been available to the customer – so-called "time compensation".

As described in section 7.8 of this report, the bank calculates this time compensation on the total compensation amount, with the interest calculated in accordance with section 5 of the Danish interest

Rate Act, as interest is calculated from the first possible date of overcollection on the account until the date of compensation. In our opinion, the method chosen means that in many cases, the bank will probably provide the customers with time compensation for a longer period than that is provided for by the Danish Interest Rate Act, as part of the amount may accrue from an earlier date than the date on which payment was made. According to the bank, this is done in particular to ensure the easiest possible communication to the customer, and the approach is also seen to be advantageous to the customer. In our opinion, the bank has sought a solution that will to a large extent put the customer at an advantage relative to the provisions of the Danish Interest Rate Act.

However, we note that while the bank uses the earliest possible starting date for the calculation of interest on the total compensation as a starting point, the bank also applies the interest rate in force on the date of *the first* overcollection. On request, the bank has informed us that this difference in interest rates before and after March 2013 can only be assumed to be significant in a few cases, as the bank calculates interest from the earliest possible date, and as erroneous calculation of interest assumes that the customer has been subject to overcollection both before and after March 2013. However, the bank acknowledges that in special situations, a customer may not receive interest at the rate corresponding to the interest rate calculated in accordance with section 5 of the Danish Interest Rate Act, despite the early start of interest accrual.

On 15 October 2021, the bank informed us that it is working on identifying the customers who may be affected by the above issue and that in the cases in question it will ensure that the customer receives interest at least equal to the interest that would be provided under section 5 of the Danish Interest Rate Act. See also section 7.8 of this report for a more detailed description.

#### *3.4.1.8 Observations regarding testing and validation*

The bank has explained and demonstrated that in connection with the development of the data models for recalculation and calculation of customer repayment requirements, the model results are continuously tested and validated. The results of the models have thus been tested and verified both in connection with the development and actual use of the data models.

The aggregate documentation for the testing and validation performed by the bank was not at our disposal until October 2021, and we therefore have not had the possibility of conducting an exhaustive examination and assessment of the documentation in connection with the preparation of this report.

### **3.5 Disbursement and communication about the four root causes**

As described, the bank has recalculated and assessed the cases in the bank's debt collection systems that have been identified by the bank as potentially affected by the four root causes. In this context, a

total of 7,508 customers have been identified as at 18 October 2021<sup>3</sup>, where the root causes of errors found have led to overcollection.

In this connection, the bank has paid compensation to 5,437 customers according to the information provided. According to information provided, compensation is pending in 2,071 cases, which is due to:

- Bankruptcy/probate court cases. As regards bankruptcy/probate court cases, the bank awaits the final solution to the additional issue concerning these cases. The bank has a dialogue with the Danish Court Administration about this (see section 9.4.1).
- Missing information: In some cases, the bank does not have information about the customer's current bank account and NemKonto account, and compensation is not immediately possible. In this connection, we have received examples of letter types in which the bank requests customers to contact the bank in order to receive compensation.
- Manual Review (QA): The manual review was completed only on 29 October, when it was concluded that approximately 900 customers are entitled to compensation. Payment to these customers has been initiated, but since most customers do not bank with Danske Bank, it may, according to the bank, take up to 14 days for these customers to receive their compensation.

According to the bank, the amounts paid out as part of the compensation process have not been offset against outstanding balances on a customer's other accounts, as the bank when offsetting across accounts cannot rule out the possibility that the other account could be affected by errors. However, we have found that, in November 2020, at least in one specific case, the bank offset an amount against the customer's claim. We have been informed that the offsetting was made in connection with a manual adjustment of the customer's accounts.

We understand that the bank in the manual case processing may have set offset amounts against customers' claims. As additional issues have been identified on an ongoing basis, such case procedure in our opinion entails a risk that compensation amounts may have been used to cover another, potentially incorrectly calculated debt, which means that the customer will have to be compensated again at a later date. We have not received any information about the number of cases in which offsetting has been made. In October 2021, however, the bank informed us that it is investigating the case in which offsetting was made across accounts in more detail and that the bank will return to us when the result of this investigation is available.

In relation to the bank's communication, in particular, see sections 6.6.1 and 8.2 of this report. We note that the bank (as far as possible) has informed the customers whom the bank has identified as

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<sup>3</sup> It should be noted that the 7,508, 5,437 and 2,071 customers represent the number of customers calculated in the models and by the manual review, which means that some customers count more than once.

being affected by the four original root causes, and that the bank has informed the customers who have received a repayment about the payment and the total amount, including time compensation.

In connection with the compensation paid by the bank, we note that the customer is informed that the customer will receive compensation and that the amount will be paid out within 14 days. The bank's letters also state that the customer is informed about the assessment of the repayment claim being based on either the statistical model or the bank's business decision (see section 8.2 of this report). It also appears that the customer is advised about the possibility of reporting any additional losses to the bank, and the customer is informed about the possibility of contacting the bank for further information about the basis for the calculated compensation. It also appears that no offsetting is made against other outstanding debt (see the assessment below).

The bank has also decided and informed customers that the bank will cover any tax claims that may be made against individual customers as a result of the payments made by the bank. In concrete terms, the bank has informed the customers that the bank is in dialog with the Danish tax authorities about whether the customer is liable for tax on the repayment and the compensation amount. Since July 2021, the bank has also in its letters to its customers stated that if tax is to be paid on the compensation amount, the bank will cover such tax. See section 8.3 of this report.

### **3.5.1      *Assessment and observations***

#### **3.5.1.1    *Summary***

According to the information provided, the bank has compensated customers for root causes 1 to 4, unless the cases await clarification regarding the bankruptcy/probate cases issue (see section 9.4.1) or if the bank has yet to receive payment details from the customer or payment is pending the completion of the manual review.

The bank has had a difficult task in relation to informing its customers about the compensation. On the one hand, the bank has had to ensure that customers received information that was sufficiently detailed and accurate for customers to understand – and react to – the errors detected and understand the implications these have for them. Secondly, the bank's calculation of compensation has been characterised by considerable complexity, and, as stated above, the individual calculation models have many sub-elements, including elements of estimates and assumptions relevant to the calculation. Overall, we have found no basis for criticising the level of information of the bank's payment letters because the bank's letters provide customers with detailed guidance about how to contact the bank to ask about the calculations should they feel the need to do so.

However, we have noted that in the letters about compensation sent to customers who are still registered as having an outstanding debt in the bank's systems, the bank informs the customer that the amount is paid directly to the customer rather than "offsetting the amount against [the customer's] current debt". The letters also inform customers that the bank will later send the

customer an overview of how the bank has calculated the repayment amount and the time compensation amount.

In relation to the above, reference is made to section 3.5. It is noted, however, that the calculation of compensation in open cases is made on the basis of the existing registered debt balance in the case to which the payment pertains. In this connection, it is a prerequisite for full compensation that the customers' registered outstanding debt on the account that is the basis for the compensation calculation is offset. This was not communicated by the bank to the customers concerned in connection with the disbursement of compensation amounts. As stated above in section 3.4.1, we believe that the bank should seek to rectify this as soon as possible and inform customers accordingly.

As described above in section 3.5, the bank has decided and informed customers that it will cover any tax claims that may be made against individual customers as a result of the compensation. In this connection, we note that the timetable for the bank's correction of data ("write-back") currently extends into 2022. Although the bank is under no obligation to provide customers with advice on tax matters, the current guidance section in the bank's letters may indicate to the customer that there is uncertainty about the tax liability regarding payments made by the bank, and customers may therefore be under the impression that they can expect further information from the bank on this subject. However, since customers will generally have to report taxable income for the 2021 income year before 1 May 2022, the bank should provide guidance to customers again in reasonable time before this deadline. The bank has a continued dialogue with the Danish tax authorities in this regard, and we will follow up on this in connection with the analyses of the bank's approach to the correction of data in its debt collection systems. This issue is therefore not dealt with further in this report.

### **3.6 Special attention to the additional issues**

In connection with the bank's work on debt collection and the four root causes of errors identified, as described in section 9 of this report, the bank has identified a number of additional issues that have or may have led to errors in the bank's debt collection, including errors in the overcollection of the bank's customers. The bank internally names these issues as Additional Issues.

The Danish FSA, referring to the additional issues identified, on 21 September 2020 ordered the bank to take measures to ensure that the risk of any incorrect collection stops or is limited to an acceptable level as soon as the error has been identified and to notify affected customers by means of individual communication as soon as the bank has established with a sufficient degree of certainty that the customer belongs to a group that may be affected by the errors identified

At the time of the bank's statement to the Danish FSA of 10 September 2020, the bank had established separate tracks to handle 14 of the additional issues. Since then, the bank has found several factors

that have given rise to analyses of potential errors. As stated at 1 October 2021, a total of 28 additional issues have been identified.

The additional issues are broad in range and for some reflect the derived consequences that have arisen as a result of miscalculated debt items, among other things because of the four root causes of errors in the debt collection systems. A number of the issues are similar to the original four root causes, including to the extent and in relation to the fact that the problem may have a direct impact on the debtor relationship for each customer. In our opinion, the designation as either a root cause or an additional issue is mostly a result of the bank's internal ongoing acknowledgement process and of the organisation with which the bank has chosen to deal with the errors.

The additional issues include, for example, errors in information about the debt that has been passed on to the Danish tax authorities (described under additional issue 11 below), errors in information to RKI (additional issue 4) and errors in reporting claims in bankruptcy/probate court cases (additional issue 1). Similarly, the miscalculated debt items cause errors in information exchanged with debt collection agencies (additional issue 13), and the errors have given rise to data protection considerations (additional issue 12).

Other issues concern separate errors of importance to the size of the debt, including errors in the bank's calculation of interest (additional issue 17), errors due to interest on reminder fees (additional issues 2 and 14), errors due to insufficient business procedures for exchanging information with debt collection agencies (additional issue 13) and errors resulting from the lack of limitation dates in the bank's mortgage system (additional issue 16).

Finally, errors in the bank's case handling have also been detected that may have affected customers financially or otherwise, including the lack of negotiation of estate agent fees for the *home* estate agent chain (additional issue 10) or revenue recognition of amounts in favour of the customer of up to DKK 50 in connection with the bank's closing of cases (additional issue 19).

It should be emphasised that a number of the identified additional issues affect a significant number of customers in the bank, and that the issues, as for causes 1 and 2, include a mix of debt types and incorrect calculation of interest. This applies, for example, to issue 8 on legal costs, see below, section 9.4.8.

Since the spring of 2021, we have followed the bank's work on analysing the additional issues. In this connection, the bank has described and documented the procedures for the analyses in such a way that it works on the basis of a model in which the issues identified are initially covered in more detail by an analysis team at the bank.

In relation to the preliminary analyses, we understand that the bank has generally worked on the basis of an ambition that the analyses should at least cover the following matters:

- a. Confirm or dismiss the assumption that a given matter has led to or may lead to errors in the bank's debt collection, including matters that are in breach of the bank's obligations under Danish law, including rules and principles of good practice, etc.
- b. Identification of the necessary *preliminary* measures to ensure that the error does not recur or increase to a greater extent (see sections 6.3 and 9) regarding the impact of the errors on the risk of overcollection of the bank's customers
- c. Clarification of whether the error has led to wrongful debt collection and whether, as a result, full or partial repayment (or offsetting) of amounts that have been paid by the customer or collected from the customer should take place
- d. If relevant, a preliminary analysis to determine the number of customers who may be entitled to receive compensation (see above, point c); as well as, if possible, an assessment of the expected amount ranges for such compensation based on assumptions of possible ranges determined on the basis of the available data
- e. If relevant, an preliminary analysis of the measures necessary to correct the error, including identification of the need to adjust functionality in the bank's IT systems, and the introduction of new business processes, which must be carried out before the bank can remove the interim measures introduced to prevent the error and resume debt collection to the extent that it has been suspended in full or in part
- f. If relevant, a preliminary analysis of the need for correction of data in the bank's IT systems before debt collection can be resumed, see (d) above.

As described in section 9 of this report, the bank has only completed preliminary analyses concerning a proportion of the additional issues identified. The analyses will be completed in connection with a report (a Fact Pack) which, after approval by the bank, will be passed on to the teams that are to continue working on the matters identified by the analyses (for example, the preparation of models for compensation, the sending of letters, the implementation of system adjustments, etc.).

It should be noted in relation to the above that to a wide extent, the analyses are only preliminary analyses, which describe the potential consequences of the issues and the following need for action. However, the specific needs and opportunities for action must then be analysed in detail by the bank and implemented by means of concrete measures. New knowledge may thus arise in the bank's further work, which will have direct consequences for the conclusions previously set out by the bank in an analysis.

The bank has documented that analyses had been carried out on 19 of the 28 additional issues identified as at 1 September 2021. See section 9 for a detailed description of these issues and the bank's work on them. For a description of the issues dealt with in this report, see section 1.2.

### **3.6.1 Assessment and observations**

#### **3.6.1.1 Summary**

It is our overall opinion that the bank has established an appropriate process for reviewing the additional issues identified. This has been done partly with a view to establishing whether the bank's observations actually cover a real issue and partly to ensure that the issue identified is not aggravated or continues to exist in future operations until such time as the issue can be remediated by means of compensation payment, correction of the outstanding debt balance and, if necessary, adjustment of IT systems and/or business processes for future operations.

Furthermore, reference is made to sections 3.3 and 6 of this report, and it is noted that action taken by the bank to address the risk of future overcollection from its customers does not seem to have fully taken into account the risk arising from errors resulting from the identified additional issues. As described in the sections mentioned above, the bank did not make any decisions to prevent overcollection as a result of the additional issues until at a relatively late point in time.

However, on 22 October 2021, the bank decided to extend the scope of the automatic suspension of existing payment agreements. Consequently, there does not seem to be a future risk of overcollection of debt in the bank's debt collection systems in relation to such payment agreements, with the exception of cases in which the bank's customer makes an informed choice to continue the payments.

Finally, it should be noted that for a number of customers who continue to be registered in the RKI credit reference register at the request of the bank, the additional issues identified may have caused the customers to be registered on a wrongful basis or may have wrongfully caused the customers' registration in RKI to be maintained for too long. As described above in section 3.3.1.5, we have noted that on 22 October 2021, the bank decided that the registration of customers in RKI in cases where the risk of errors cannot be ruled out at the request of the bank must be withdrawn and that the bank will initiate a dialogue with Experian A/S in this regard.

With reference to the comments set out in sections 3.3.1.1 and 6 of this report, it is our opinion that the bank has today taken measures that ensure that the risk of future overcollection of debt as a result of the additional issues is insignificant for customers who have debt registered in the bank's debt collection systems.

However, we note that the bank's general Pause logic applies only to the bank's debt collection systems in Denmark. We are unable to ascertain whether the bank has taken separate measures to ensure that it does not overcollect from customers affected by additional issue 2 regarding the charging of interest on reminder fees in Norway or additional issue 14 regarding the charging of reminder fees under leasing agreements. Although the risk is probably minimal in view of the



proportion of total debt that such fees would normally account for, the bank does not appear to have carried out any separate investigation into this matter.

### *3.6.1.2 Observations regarding the bank's methodology and approach to analysing additional issues*

As described in section 9 of this report, the bank has established a process for reviewing the additional issues found in order partly to determine whether the bank's observations actually cover a real problem in relation to the bank's debt collection and partly to ensure that the problem identified is not aggravated or reproduced in future operations until the problem can be solved by compensation, correction of the outstanding debt balance and, if necessary, adjustment of IT systems and/or business processes for future operations.

However, it should be noted that in relation to the bank's methodology and approach, the issues are analysed individually and on an ongoing basis. In this connection, the bank has not described the method as a systematic and predetermined process for examination of whether the results of later analysed problems give rise to revisit previous analysis reports and reconsider their conclusions. In our opinion, the failure to describe such a standard operating procedure may result in the risk of problems being overlooked by the sequential approach to analysis. Several problems are such that later analyses may affect the conclusions already reached by the bank in previously completed analyses. This applies, for example, to the issues of reporting incorrectly calculated claims in bankruptcy proceedings (additional issue 1), the creation of customers in RKI on the basis of an incorrectly calculated debt (additional issue 4) and questions about GDPR compliance (additional issue 12).

However, we are aware that in some cases the bank has revisited some of the additional issues for further analysis as a result of new knowledge gained in another context. However, this appears to be based on concrete and specific decisions by relevant people and not on general practice.

The interdependency between many of the issues therefore dictates that the bank should regularly assess whether a previously completed analysis is to be reopened. The lack of a standard operating procedure in this area increases the risk that the bank will not make a sufficient revisit of previous analysis results before a new analysis (preliminary) is completed.

### *3.6.1.3 Observations regarding prevention of overcollection*

It should also be noted that the bank has not described a separate process for considering and implementing measures in its documented business processes for the additional issues that protect the affected customers against future overcollection. The bank has stated that it has considered the generally implemented Pause logic to be sufficient, see section 6 of this report.

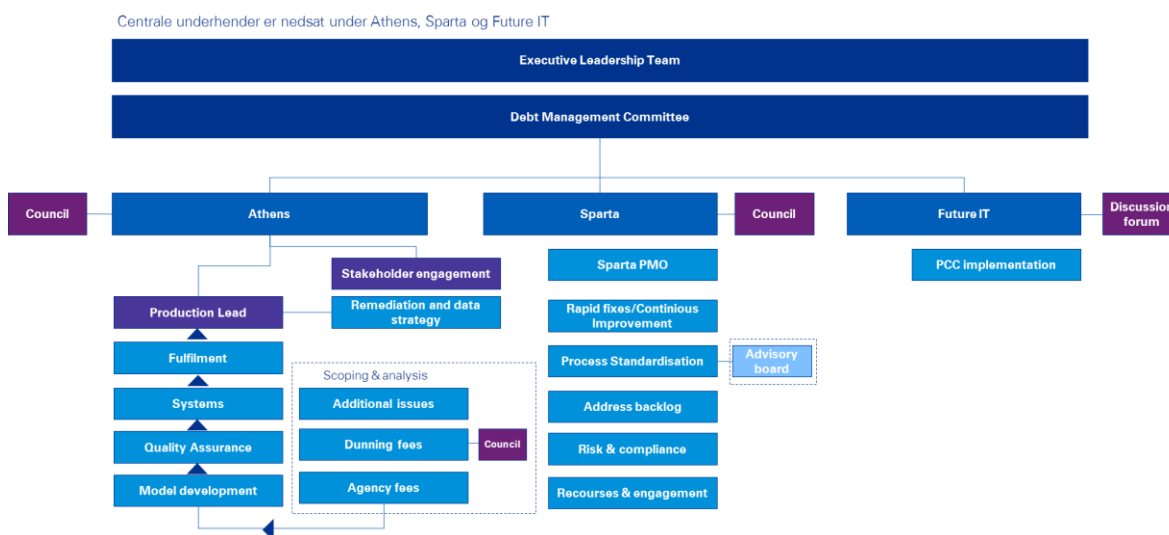
In this connection, please refer to our comments in section 3.2.1 above, including comments on the correlation between the Pause logic and the so-called Red/Green checks, and comments on the overall adequacy of the 60% threshold in relation to customers who are or may be affected by one or more of the additional issues. As described here, we do not find that the bank has actively carried out investigations to determine whether the overall extent of the additional issues identified should have led to an adjustment of the Pause logic, including a change of the 60% threshold which calculated on the basis of a number of cases in the DCS that were or could be affected by root causes 1 and 2. At least a number of the additional issues identified may potentially result in a significant amount of compensation and interest paid to each customer. We refer to section 3.2.1 above, including regarding the measures decided upon by the bank in October 2021 to handle the risk of overcollection going forward.

## 4. STATUS AND TIMETABLE FOR THE BANK'S FURTHER WORK

### 4.1 Overview of the status of compensation work and remediation of customer cases

In order to deal with the debt collection problems and remediating the debt collection process, the bank has set up a governance structure to address the various problems in the debt collection processes, which are organised in three different specifically set-up programmes, each with a number of sub-units, working to remedy the problems on the basis of specific areas of responsibility. In addition, the bank has established various forums to be able to make decisions about methods and principles for individual actions and the prioritisation of resources across the individual issues. See the figure below.

Figure 1 – Overview of the bank's organisation of the work on debt collection remediation:



The central governing body is the Debt Management Committee ("DMC"), which generally manages the three programmes, "Athens", "Sparta" and "Future IT".

According to our information, the DMC meets every two weeks, and decisions and proposals approved by the individual "councils" for the individual programmes, see below, are discussed, approved or sent back with instructions for further analyses. The DMC reports directly and regularly to the Executive Leadership Team (the bank's Executive Board), based on a fixed structure, and in addition, the DMC must present issues and decisions to the Executive Leadership Team if these can potentially affect the bank as a whole and/or if they are particularly critical issues.

In addition, the bank has established councils for Programme Athens and Programme Sparta in order to ensure an agile decision-making process and to avoid overburdening the DMC. The two councils are thus responsible for ensuring that decisions and proposals made by the respective programmes are approved by their councils before they are presented to and approved by the DMC, if the decisions to do so require approval from the council in accordance with the mandates laid down.

Day-to-day operations and decision-making at lower levels are handled by the individual programmes, which are headed by a programme manager.

Since the establishment of the programmes and, in particular, Programme Athens, the bank has found, on an ongoing basis, that the scope and complexity of the issues and related remediation measures have been increasing, and that is why additional resources have been allocated to the programmes in step with this becoming clear. Throughout the process, the bank has allocated substantial resources to the programmes, and in October 2021, a total of approximately 240 employees and external consultants were assigned to the programmes within all the relevant areas.

#### **4.1.1 Athens**

Programme Athens was established in November 2019 in response to two internal ORIS reports that contained information to the effect that, in several cases, data in the bank's two debt collection systems (DCS and PF) had been found to be insufficient or missing. The establishment of Programme Athens ensured that separate and substantial resources were dedicated to handling the challenges in the debt collection area.

As can be seen from the figure above in section 4.1, Programme Athens has a number of different sub-units with each their area of responsibility. The individual sub-units are structured with the aim of establishing clear areas of responsibility from which the individual sub-units have a shared responsibility in a chain process, so that a sub-unit handles a task type, leaving task handling to the next sub-unit and so on. The procedure, known as the "Factory model", further aims to ensure, as far as possible, uniform and effective case processing, being designed to cover all relevant stages of the project from initial analysis to the payment of compensation, whether this is in relation to the four root causes or to the additional issues.<sup>4</sup>

In connection with the payment of compensation in relation to the four root causes being largely completed, it should also be noted that the bank has entered into a new phase in which the model will in future strengthen the bank's handling of the so-called "additional issues" described in section 9 of this report, including completion of ongoing analyses as well as analysis of newly

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<sup>4</sup> The figure above states the individual sub-units as: Scoping and analysis, model development, quality assurance, systems and fulfilment.

identified additional issues and the resulting need for compensation to customers as well as changes to systems.

It should be noted that the relevant key subjects dealt with in this report, see sections 6 to 9 of this report, are largely addressed by Programme Athens. For a more detailed explanation of individual actions, reference is made to these sections.

#### **4.1.2 *Sparta and future IT***

In addition to Programme Athens, at the beginning of 2021, the bank launched Programme Sparta, which aims to further strengthen processes and controls in the area of debt collection. This includes, among other things, process mapping within debt collection, risk assessments of existing processes, preparation of procedures and preparation of controls.

In addition, the bank has established Programme Future IT, which is responsible for ensuring the implementation of the bank's new IT system PCC. The new IT system is designed to complement the bank's debt collection processes and create a better workflow management system, but will not replace the bank's existing debt collection systems DCS and PF. As described in section 1.2, this report does not generally cover the questions comprised by question 2 in the Danish FSA's decision of 26 November 2020. The report thus does not include an assessment of whether the new IT system will be able to support the other IT systems and the debt collection process from the date of implementation.

As stated above, the most important measures relevant to this report are embedded in Programme Athens, and Programme Sparta and Programme Future IT programmes are therefore not considered in detail in this report.

#### **4.2 The bank's timetable for further work**

For a status on the bank's work, see section 1.3 above, for a definition of the subjects dealt with in this report, see section 1.

Since the project started in 2019, the bank has been working regularly on timetables that have included both the calculation and the payment of compensation, correction of data in the bank's systems, and implementation of the necessary adjustments to IT systems and work processes in order to remediate the overall collection process.

In relation to timetables, it is important to emphasise that the bank has to a large extent had to deal with issues whose actual scope and nature could not be determined until after a thorough analysis phase. This means that detailed planning of the subsequent steps in the process, including the creation of compensation models, data correction models and the basis for system adjustments, has been possible only to a limited extent. At the same time, as described in section 9, the bank

has regularly identified and analysed new issues in relation to debt collection, which has meant that already planned activities have had to be rescheduled and postponed.

In relation to the bank's overall remediation timetable, it should be noted that the bank has stated that in a number of areas, it is highly dependent on a number of key persons at the bank who have detailed knowledge of the bank's IT systems and its operations in the years from the 1980s up until the present day. Combined with the bank's organisation, this means that the bank cannot fully cover and analyse all of the identified additional issues at the same time, and that the work must to some extent be carried out sequentially in such a way that the individual teams focus on and analyse one area at a time. This of course impacts the overall remediation timetable.

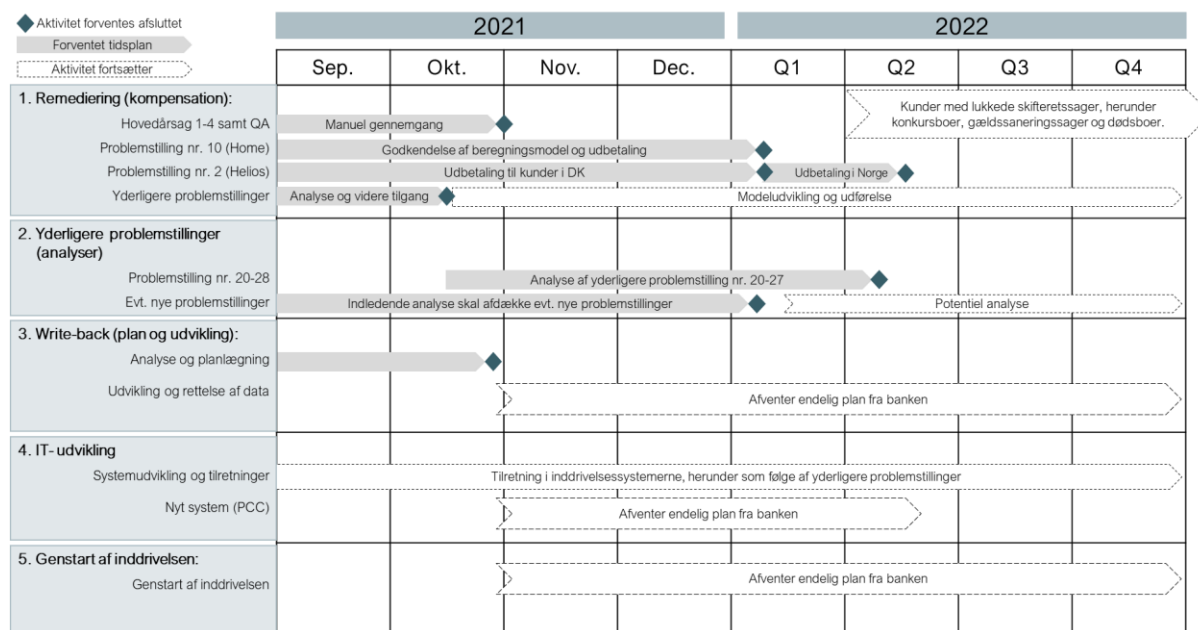
As described in section 7, the bank has at present almost completed the process of calculating cash payments to customers to receive compensation as a result of overcollection due to root causes 1–4. However, in accordance with the bank's principles, the bank has yet to determine the process of compensation in relation to any tax liability that the individual customers may incur.

At the same time, the bank has conducted preliminary analyses of 19 additional issues, and for a number of these issues, the bank has started to create compensation models and to plan a payment process.

The bank has not, in whole or in part, performed any machine data correction of customer debt balances in the bank's systems in relation to customers affected by the root causes or the additional issues.

The figure below outlines the key points of the bank's timetable for the coming months as it has been presented to us. In this connection, it should be emphasised that the timetable does not take into account the fact that the bank has set up additional independent tracks to handle new additional issues.

Figure 2 – Summary of the key points of the bank's timetable for the coming months:



As stated in the timetable, the bank intends to complete the payment of all compensation amounts for root causes 1–4 in October 2021.

In addition, the bank plans to complete payment of compensation for certain of the additional issues (issues 10 and 2) in the first quarter of 2022.

Moreover, the bank plans to carry out analyses of the now known additional issues in the course of the fourth quarter of 2021 and the first quarter of 2022.

As can be deduced from the timetable, payment of any compensation and correction of debt balances for the bank's customers in relation to all known additional issues will likely take most of 2022. Similarly, it is likely that the bank will not have implemented the measures, including system adjustments, necessary to resume debt collection until the end of 2022 or in early 2023.

As it appears from the timetable, the final plan for correction of data ("write-back") and the process for resuming debt collection are as yet uncertain. At the present time, we thus do not have sufficient insight into these matters to express a conclusion with regard to the bank's approach and work in this connection. As described in section 1.2, these matters are therefore not considered in detail in this report.

We have no basis for concluding that the bank, by adding additional resources to the task of analysing and handling the additional issues, would be able to ensure significantly earlier completion of the aggregate work now planned. In this connection, it should be noted that, as far as a number of the issues in question are concerned, the bank is found to be highly dependent on

knowledge that, according to the information provided by the bank, is held by a few key persons at the bank (see above). In our opinion, this constitutes an independent risk in relation to the bank's current timetable for the overall remediation of the debt collection issue. At the same time, it should be noted that the bank has already allocated considerable staff (both internal and external) resources to the remediation work, and that we have not found reason to criticise the bank's assessment of the adequacy of these resources in relation to the ability of the project organisation to carry out the remediation work efficiently and with the least possible risk of errors.



## 5. INTRODUCTION TO THE FOUR ROOT CAUSES

### 5.1 The four root causes

The bank has disclosed four root causes ("root causes") that may have led to errors in debt collection and the collection of excess amounts from the bank's customers. The four root causes are described by the bank in the regular explanatory accounts to the Danish FSA and others and are briefly reproduced in this section. The following root causes of errors are described by the bank:

- Root cause 1: The principal amount, interest and fees were merged in the bank's debt collection systems, thus leading to incorrect handling of limitation periods for interest etc.
- Root cause 2: The limitation dates were registered incorrectly in the bank's debt collection systems, thus leading to incorrect handling of limitation periods for the bank's claims
- Root cause 3: In a number of cases, guarantors were incorrectly registered as co-debtors in the bank's debt collection systems, and this may have led to wrongful debt collection in respect of the individual guarantors.
- Root cause 4: Missing link between two or more co-debtors in the bank's debt collection systems may have caused the bank to collect more than the actual amount of total debt.

As will be shown below, all four root causes are, according to the information provided, found in the bank's own debt collection system DCS, whereas only root cause 1 is found in the PF system, which is used to collect debt to Realkredit Danmark A/S. According to the information provided, both systems are used for debt collection from both personal customers and business customers, however, mostly from personal customers.

For the sake of good order, we note that the designation of the above matters as "root causes" has been chosen by the bank and is therefore maintained in this report. However, a number of the issues identified later in relation to the bank's debt collection (the so-called additional issues) are similar to the four root causes in terms of scope and nature and may similarly affect the legality and accuracy of the debt collection from the individual customer.

The root causes are due to irregularities or errors in the manner data is transferred from the banking previous systems to the debt collection systems, and the bank has therefore taken measures to mitigate these matters in future by modifying its IT systems. These measures are not discussed in more detail in this interim report, as the measures have not yet been completed and fully implemented by the bank.

It should also be noted that, in addition to the risk of overcollection, the four root causes may also have led to additional errors in the bank's case handling, including incorrect reporting to the

Danish tax authorities, wrongful registration of customers in RKI and breach of personal data rules. Such additional issues are described by the bank as "additional issues" and are treated separately. See section 9 below for details.

#### ***5.1.1 Root cause 1: Principal, interest and fees aggregated into one amount***

According to the information provided, the first root cause of errors was found in both the bank's debt collection system DCS and the debt collection system PF, which is used for debt collection for Realkredit Danmark A/S. In both debt collection systems, the principal, interest and fees were recorded as one amount and listed as the principal when transferred from the bank's previous debt collection systems.

In the DCS system, according to the information provided, root cause 1 arose in connection with the implementation of this system and the transfer of claims from previous debt collection systems in 2004 and on an ongoing basis in connection with the transfer of cases from the bank's previous debt collection systems. According to the information provided, the DCS system provides data fields for the principal and interest/fees, which can be registered separately. The error is thus explained by the fact that interest and fees have not been allocated to the correct data field on the transfer to the DCS. In the PF, on the other hand, the error is due to the fact the principal and interest/fees cannot be registered separately in the system; this functionality has been or will be developed for the purposes of correcting data.

The aggregation of principal, interest and fees described above means that these amounts have not been processed separately in the bank's debt collection cases, which has led to challenges in terms of handling time-barred debt. Since interest and fees generally have a considerably shorter limitation period (three years) than the principal (ten years), parts of the debt will thus be registered with a late limitation date. Root cause 1 therefore entails a risk that the bank may have collected amounts to cover time-barred debt, as interest and fees may have appeared to be enforceable after the limitation period. Agreements may have been concluded, and legal actions etc. may have been initiated in relation to time-barred debt.

#### ***5.1.2 Root cause 2: Incorrect registration of the debt origination date in the DCS***

According to the information provided, this second root cause of error has only been found in the DCS system and has occurred on a regular basis in connection with the transfer of debt to said debt collection system. The bank has thus determined that the date registered as the debt origination date upon transfer and used as the basis for the system's time-barring calculation is in all cases the date on which the claim was registered as created in the DCS system. The registered debt origination date thus reflects a later date than the date on the basis of which the limitation period for the principal, interest and fees is calculated.

The incorrect "debt origination date" in the DCS means that the limitation period is calculated from a late date, and the registered limitation date in the system becomes too late, thus entailing a risk that the bank may have collected and covered time-barred debt since the debt may have appeared to be valid after the limitation date. Moreover, agreements may have been concluded, and legal action etc. may have been initiated in relation to time-barred debt. We also note that, due to root cause 1, it will not be possible to register one correct limitation date for all parts of the aggregate claim unless the principal, interest and fees are acknowledged as owed prior to the transfer or on a specific legal basis, see section 5(1) of the Danish Limitation Act.

### **5.1.3      *Root cause 3: Registration of guarantors as co-debtors***

According to the information provided, this third root cause of errors has only been found in the DCS system and, according to the information provided, is limited to approximately 7,600 customers whose cases were transferred from a legacy BG Bank system in 2004. The bank has thus explained that the error occurred in connection with the implementation of the DCS system and the transfer of debt items from the previous debt collection system in September 2004. In this connection, guarantors may have been registered in the DCS as being "ordinary" co-debtors. The information in the DCS will not indicate that the person is a guarantor, which entails a risk that the bank will disregard the special rules and conditions applying to guarantors.

The incorrect registration of guarantors as co-debtors entails a risk that the bank may have collected larger amounts from the guarantor than the amount actually covered by the guarantee. Ultimately, the bank may have lost the right to assert the claim due to failure to comply with the framework of the guarantee agreement and the protective mandatory rules in this respect. The relationship will also have affected the bank's reporting to the Danish Customs and Tax Administration, where the guarantor will have been registered as co-debtor.

### **5.1.4      *Root cause 4: Full principal collected from several co-debtors***

This fourth root cause of errors has, according to the information provided, only appeared in the DCS system and, like root cause 3, arose when the conversion took place in 2004. According to the information provided, co-debtors may thus have been registered as individual debtors in connection with the transfer to the DCS in 2004, so that the debtors have been registered separately as the only debtor for the full debt. This also means that one claim has been created several times in the DCS. Thus, in these cases, there is no "link" between these co-debtors in the system. According to the information provided, this root cause is limited to approximately 3,670 customers transferred from the bank's own previous debt collection system.

The lack of a link between co-debtors means that the bank may have collected the same amount more than once, i.e. both from one debtor and the other. This means that there is a risk of overcollection from the bank's customers if several co-debtors pay to cover the same debt. In addition, the separate registration will result in the debt carrying interest separately for several

co-debtors (double calculation of interest on the same debt), and finally, the matter may have led to incorrect reporting of outstanding debt and interest thereon to the Danish Customs and Tax Administration.

## 5.2 Customers affected by the four root causes

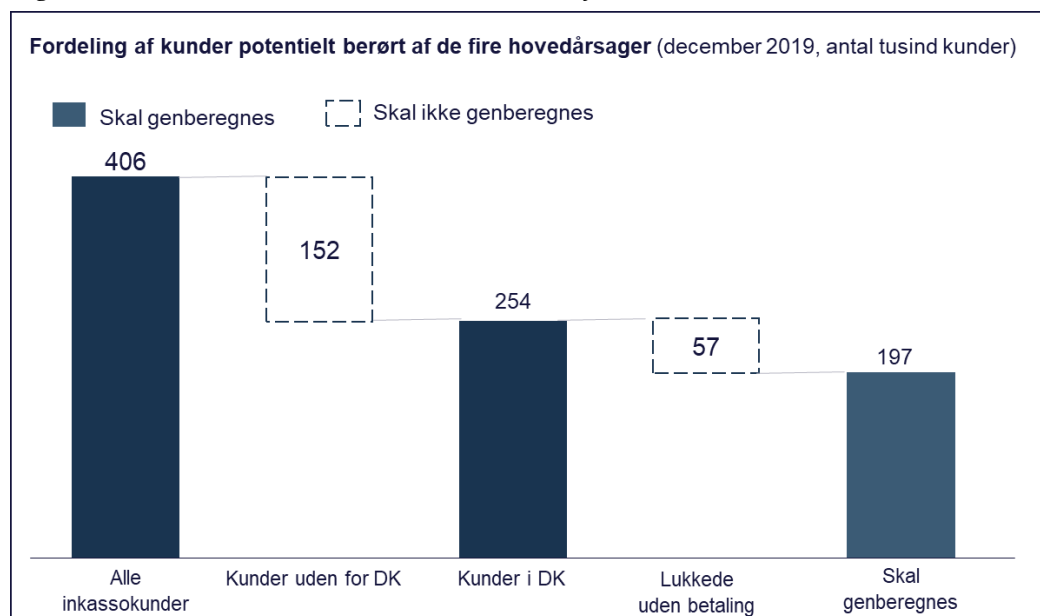
The four root causes of errors may have led to overcollection from customers, including the collection of time-barred debt and/or wrongful collection of excessive amounts. Furthermore, the errors may mean that customers are currently registered with a debt exceeding their actual enforceable outstanding debt.

The bank has sought to identify the customers who may be affected by one or more of the four root causes and who for this reason have been charged a larger amount than the amount actually owed to the bank by the customer.

As stated in section 5.1, the bank identified root causes 1-4 in the DCS system, while only root cause 1 was found in the PF system. According to the bank, root causes 3 and 4 can be limited to approximately 11,000 customers transferred to the bank's DCS system when the system was implemented in 2004.

In order to identify customers for which a recalculation is relevant because of the four root causes, the bank has worked with various customer segments, which at the end of 2019 were distributed as illustrated below.

Figure 3 – Distribution of customers affected by the four root causes at December 2019:



As shown in the chart above, the bank has assessed that customers outside Denmark (customers outside Denmark) and customers in Denmark where the case was closed without repayment are not at risk of overcollection due to the four root causes, and these cases are therefore not recalculated.

### Customers outside Denmark

The bank uses the DCS system for debt collection in several countries. According to the information provided, the bank examined in 2019 whether the four root causes of errors may also have affected accounts registered in branches outside Denmark. We have received a presentation from the bank containing a general description of the bank's approach to the analyses and the results of the analyses.

The bank's presentation indicates that the issue of the root causes in branches outside Denmark has been examined by means of a questionnaire and interviews with selected employees in Norway, Sweden, Finland and the UK, respectively. For these four countries, it has been concluded that the four root causes are either not present or have not led to wrongful debt collection. According to the information provided, this is due to other practices and/or other legislation on time-barring in these countries.

For example, the bank's presentation indicates that, in Sweden, the bank checks all cases manually when they are created in the DCS and corrects the case if it is noted that the case contains an aggregated principal that includes interest and fees. Subsequently, the cases are transferred to a collection agency, and the bank does not use the DCS to "keep track of" statutory limitation periods in Sweden. For Finland, the bank's presentation states that the principal and interest are not registered as an aggregate amount in the DCS and that, pursuant to Finnish legislation, the entire debt has one and the same limitation date. For the UK and Ireland, it is stated that no interest is added in the DCS and that the entire debt is subject to the same rules of limitation. However, the bank has also registered an incorrect limitation date, which is stated to have been handled by internal processes, so that this error has not had any consequences for the customers.

Consequently, the bank has not identified any risk of overcollection due to the four root causes in branches outside Denmark. However, the bank's investigations have revealed that some of the additional issues also apply outside Denmark. See section 9 below for details. We can also see that the bank is currently considering initiating a new investigation of the branches outside Denmark in respect of the additional issues, as additional issues have since been identified that have not all been looked into outside Denmark.

We have not reviewed specific cases or verified the information provided by the branches outside Denmark about limitation legislation applicable in these countries and what is applicable law in relation to the accounts in question. On the basis of the bank's presentation, it should be noted, however, that aggregation of principal, interest and fees and incorrect limitation date may also be

found in the DCS in branches outside Denmark, even though, according to the information provided, this has not led to wrongful debt collection from the bank's customers in these countries. In this context, it should be noted that there *may* be a risk of errors and wrongful debt collection if the issues are not continuously addressed by the mitigating fully or partially manual procedures described.

#### Customers with closed cases without repayments

The bank has informed us that there are approximately 57,000 Danish cases in the bank's debt collection systems that have been closed without repayment. In these cases, the debt has been written off for accounting purposes, and the account has been reset and closed without the customer having made any repayment. This may be due to a write-off of the debt in connection with bankruptcy or other probate or bankruptcy proceedings. The bank has informed us that such cases may be reopened for recording purposes, but that the bank will then close the cases again immediately.

#### Other customers in debt collection systems

The remaining customers in the bank's debt collection systems (197,000 at December 2019, to which new customers have since been added) have, according to the information provided, been subject to further analysis by the bank in order to assess whether the customer could be entitled to repayment and compensation as a result of the four root causes of error and whether the bank may have registered an incorrect balance for the customer's current enforceable debt.

However, in connection with the specific approaches, additional customers have been deselected on the basis of specific criteria. For example, overcollection and thus a claim for repayment can be ruled out for a customer if no repayments had been received in the account at the time of recalculation. See section 7 for a description of the approaches used by the bank for recalculation and calculation of compensation to customers.

We have noted that, in November 2020, the bank identified approximately 3,500 additional customers that were not originally included in the definition of the potentially affected customers. According to the information provided, this was due to the fact that these approximately 3,500 customers had been deleted in the bank's debt collection systems by mistake, which was established following the request of a customer. Against this background, the bank is seen to have identified an additional issue for further analysis (see section 9 below). Since the analyses of this matter have not yet been completed, the matter is not dealt with further in this report.

## **6. PREVENTIVE MEASURES**

### **6.1 The bank's debt collection processes**

As described in section 5, the bank has identified four root causes of errors, all of which involve a risk of overcollection from customers. According to the information provided, the errors have arisen as a result of errors in connection with the creation of the debt in the bank's debt collection system, and consequently, the bank's preventive measures focus on customers with debt in the PF and DCS debt collection systems.

According to the information provided, the debt will generally be transferred to the DCS debt collection system after three reminders and a notice of termination, and as described in section 5, it is in connection with this transfer that root causes 1 (aggregation of principal amount, interest and fees) and 2 (incorrect time-barring date in the DCS) have arisen. The transfer of debt to the PF collection system takes place in cases in which the mortgage on the property has not been sufficient to settle the mortgage loan, and in this system, root cause 1 has been identified.

According to the information provided by the bank, in case of default on a payment or an unauthorised overdraft, only interest accrual, the sending of reminders and the imposing of reminder fees take place in the banking systems, while several processes are available in the bank's debt collection systems. Thus, the bank itself describes the process in the banking systems as "soft collection", while the process after the debt has been transferred to the debt collection systems is described as "hard collection".

According to the information provided, the reminder process may continue from the debt collection systems, and interest will continue to accrue on the debt. However, the bank's employees may also conclude payment agreements with the debtor in order to settle the debt. In addition, debt collection measures may be initiated at the bank's initiative, which may include court proceedings and the levy of execution on the debt and, ultimately, a forced sale or a bankruptcy petition.

In case of administration by the probate/bankruptcy court of a debtor not based on a request from the bank, for example in relation to the estates of deceased persons, bankruptcy estates and debt relief orders, the bank may also seek cover for the debt by reporting the bank's claims for dividend.

As part of the debt collection process, the customer may also be registered with RKI if the bank has obtained grounds for the claim. Such grounds may consist of the debtor's written acknowledgment of the bank's claim or a judgment in respect of the bank's claim.

The process and the differences between the bank's 'soft collection' in the banking systems and the 'hard collection' in the debt collection systems can be outlined as shown in the figure below.

Figure 4 – illustration of the processes used by the bank under soft collection and hard collection, respectively:



In order to counter wrongful debt collection from the bank's customers as a result of the errors in the bank's debt collection systems, measures are therefore needed to take account of a number of factors, including interest accrual, payment agreements, court cases (including enforcement proceedings) and estate administration.

In a number of cases, debt collection was outsourced to external debt collection agencies, and in these cases, measures that go beyond the bank's own debt collection systems are needed, including measures to ensure proper communication, settlement and reconciliation between the bank's and the debt collection agency systems, etc.

## 6.2 General description of preventive measures at the bank

According to the information provided, since June 2019, the bank has regularly implemented new measures and controls to address the risk of the four root causes of errors leading to (additional) overcollection and wrongful debt collection. The bank's general initiatives taken since the summer of 2019 can be summarised on the following timeline:

- 1) July 2019: In the summer of 2019, the bank established a so-called red/green check that, according to the information provided, was designed to ensure that the bank did not in future take any action to collect debt from customers without prior recalculation and adjustment of the debt for the four root causes (see section 5). In this context, debt collection actions are understood as court cases, enforcement proceedings and claims in probate/bankruptcy cases, whereas payment agreements were not given a red flagging. The control thus introduced the flagging as red (not corrected) of all cases in the bank's debt collection systems in July 2019, and the bank's correction team has since been tasked with reviewing and correcting cases for the four root causes.



- 2) October 2019: The bank has informed us that since October 2019, the bank has not sent new cases for collection through debt collection agencies.
- 3) December 2019: On 17 December 2019, the bank decided to withdraw all ongoing cases from the courts or to correct the claims reported in the cases, in particular cases heard by the bankruptcy/probate court. These cases were withdrawn or corrected and resubmitted in the period up to March 2020.
- 4) April 2020: The three debt collection agencies used by the bank (Intrum, Lowell and MOP) were instructed by the bank on 22 April 2020 not to take legal action in debt collection cases without prior approval from the bank.
- 5) September 2020: In September 2020, the bank informed the debt collection agencies mentioned above that it had decided to stop interest accrual and suspend debt collection, and in this connection, called on the agencies concerned to stop all payment agreements and to stop interest accrual in all cases. According to the information provided, this was implemented before 1 October of the same year (see section 6 below).
- 6) September 2020: In order to comply with the Danish FSA's decision of 21 September 2020, ordering the bank to implement measures to stop debt collection from customers unless there was an insignificant risk of overcollection, the bank implemented a so-called Pause logic at the end of September 2020. This meant that all debt collection was suspended if 60% or more of the debt transferred to the debt collection systems from the banking systems when the case was handed over for debt collection was paid on a red (not corrected) account in the debt collection system (DCS or PF). In addition to the red/green check above, the Pause logic thus also entails suspension of any payment agreements when repayment reaches at least 60% of the debt. In addition, payment agreements may be suspended at the customer's request, regardless of whether less than 60% of the debt has been repaid. For the debt collection agencies, the Pause logic was implemented at the end of September as a full stop for payment agreements (see section 6.5.2).
- 7) October 2020: As part of the Pause logic described above, the bank also introduced an interest accrual suspension for all red cases in its debt collection systems effective from 1 October 2020. As of October 2020, the Pause logic with suspension of payment agreements and the stopping of interest accrual was thus implemented for the cases still flagged red in the bank's systems, whereas cases that had been reviewed by the correction team and flagged green were not covered by the Pause logic.
- 8) October 2020: In addition to the Pause logic, in the autumn of 2020, the bank established a process for communication to customers, which, according to the information provided, was launched in October 2020. The bank's customers were thus informed of the risk of errors in the bank's debt collection systems. In this connection, an information letter was

sent to all customers in the autumn of 2020 and a process was established whereby customers have received letters on an ongoing basis if their "risk profile" later changed (for example, if the customer started repayment).

- 9) May-July 2021: The bank has regularly identified additional issues that may affect the calculation of a customer's debt in the debt collection systems. As a result, the bank has informed us that end-May 2021, it decided to again flag all cases in the debt collection systems red and covered by the Pause logic, regardless of previous corrections made by the correction team. This is because previous corrections have not taken into account the issues identified later. At the same time, the bank decided to withdraw all cases from the courts. The bank's employees were informed about these decisions at a meeting on 2 June 2021, and according to the information provided, all cases were again flagged red also technically in the debt collection systems on 5 July 2021.
- 10) July 2021: At 1 July 2021, according to the information provided, the bank had implemented an interest accrual suspension in all cases in the bank's debt collection systems with (retrospective) effect from 1 October 2020, whereby the interest accrual suspension also covers previously corrected (green) cases. For all cases in the bank's collection systems, the interest rate is set at 0% from 1 October 2020 onwards. The bank has informed us that it has experienced technical difficulties in implementing the interest accrual suspension in the PF system and that the interest actual suspension as far as debt collection customers in the PF system are concerned therefore is made as a manual correction at customer level and not through the system, see section 6.4 for more information.
- 11) July-October 2021: Since the red flagging in summer 2021, the bank has sent new letters to customers informing them of the additional issues identified by the bank and the suspension of debt collection. However, the relevant letters regarding the risk of errors have not yet been sent to all customers. Some of the bank's customers are therefore potentially still unaware of the risk of errors in their debt collection cases. This applies to cases in which the debtor is subject to administration, including bankruptcy estates and the estates of deceased persons. However, the bank has stated that the last customers are expected to have been notified by the end of October 2021. In addition, specific information is expected to be sent to customers who may be affected by specific additional issues (see section 9).
- 12) September 2021: The bank has informed us that on 23 September 2021, a decision was taken by the bank to withdraw all submitted claims in bankruptcy/probate cases. According to the bank, the process for withdrawing such claims in bankruptcy/probate cases (estates of deceased persons, bankruptcy, debt relief) is still ongoing due to the complexity of involved in identifying the cases. It is our understanding that the bank expects to have completed the withdrawal in the fourth quarter of 2021.

- 13) October 2021: On 15 October 2021, the bank decided to change the Pause logic to the effect that all payment agreements are automatically suspended, regardless of the amount of payments already made by the customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved. In this connection, the bank expects to notify customers whose repayment does not exceed the 60% threshold of this suspension during November 2021, and the bank will also generally inform the customers that they risk overcollection if they choose to continue to make repayments on their debt. In the latter case, the bank will also inform the customers that they may expect later to receive compensation if continued repayment results in payments to the bank exceeding the actual, enforceable debt. According to the information provided, the bank expects the extended suspension of payment agreement to take effect on 1 December 2021.

In addition to the above, it should be noted that until the end of October 2021, some of the bank's customers were not informed of the additional issues, see section 9, and the resulting risk of (additional) errors in their debt collection case. This also includes customers whose cases may have previously been flagged as green and who will have received a letter from the bank stating that their case is not affected by errors, including potentially bankruptcy/probate court cases. As described, the bank decided in May 2021, however, to withdraw all cases from the courts and enforcement courts, whereas in September 2021, the bank decided to withdraw claims submitted in bankruptcy/probate court cases.

The main initiatives in the form of red/green checks and a correction team from 2019, the Pause logic and the interest accrual suspension from October 2020 and the ongoing communication process are described below.

### **6.3 Red/green checks and correction team**

In the summer of 2019, the bank implemented so-called red/green checks to counter the risk that the errors detected could continue to lead to wrongful debt collection. The checks means that all cases in the bank's debt collection systems (DCS and PF) are flagged to indicate whether the case has been screened for the four root causes and subsequently corrected by the bank's correction team if affected.

According to our information, a red flagging indicated originally that the case had not yet been corrected, and the flagging was thus intended to indicate to the case officers at the bank that no debt collection action may be taken without a prior checking of the case. In this context, collection proceedings included lawsuits, levy of execution on the debt and filing a claim in probate/bankruptcy cases (bankruptcy, estates of deceased persons, debt relief, etc.).

The bank has stated that a red flagging did not prevent the customer from making payments under payment agreements or in any other way, and the flagging thus did not protect the customer from overcollection in this connection. Payment agreements could still be arranged with customers despite the red flagging of cases, but the bank has informed us that customers who contact the bank are informed about the risk of errors and of the possibility of overcollection on repayment in full of the current registered debt balance in the system. The bank addressed the risk associated with the customer's continued repayments by introducing the Pause logic in the autumn of 2020, see section 6.4 below.

Conversely, a green flagging indicated that the case had been reviewed by the bank's correction team and that the case had been corrected in relation to the four root causes. Green cases could be submitted in estate administration cases and form the basis for legal proceedings, execution, etc. When the case was flagged green, it was no longer considered to be affected by errors and was not covered by the Pause logic. Further, the customer also received a letter from the bank to this effect (see section 6.6 on the bank's communication to customers). However, as described below, errors and uncertainties have been identified in the bank's case handling in a number of areas, and the bank no longer relies on the previous flagging of cases as being green.

The bank has stated that all customers registered in Denmark in the summer of 2019 with active cases in the bank's debt collection systems were flagged as red and that all new cases have since been created as red cases. However, the bank has stated that the method chosen could lead to some accounts being incorrectly registered as green cases, even if they had not been subject to review or recalculation. According to the bank, this would have been the case if, after a customer's accounts in the DCS have been corrected, new debt was transferred to the collection system. In this connection, we found a certain discrepancy in the bank's information about when and how this has been done. We thereafter were informed by the bank that in May 2021 a manual process was implemented to ensure that these accounts are detected and handled as red-flagged cases. However, on 15 October 2021, the bank informed us that measures were implemented in the autumn of 2020 to ensure that cases were not unintentionally being created as green cases, and we were also informed that existing green cases were in the process of being reviewed and no errors had been detected in these reviews. Since, according to the information provided to us, the bank decided to flag all accounts in the collection systems as red again on 5 July 2021 regardless of the previous green flagging, we are, however, of the opinion that the above conditions cannot at present lead to accounts that should be red not being registered as such today.

In continuation of the above, it should be noted, however, that the previously incorrectly flagged cases are still an indication of the bank's subsequent process of correction of data and resumption of debt collection. In these cases, therefore, there will still be a need for a review and possible correction for both the four root causes of errors and for additional issues before the debt collection is resumed at a later date. It is therefore important that before data is corrected, these former green-flagged cases are considered, which will be covered in detail by the bank's future process for such cases.

As described in section 6.2, the bank end-May 2021 again decided to flag all active cases as red as the red flagging, according to the information provided, was communicated to employees on 2 June 2021 and implemented in the debt collection systems as of 5 July 2021. In this connection, it should be noted that the current red flagging of all cases is not seen in isolation to counter the fact that former green cases may have been registered in probate cases or included in court cases and in enforcement proceedings. However, end-May 2021, the bank decided to withdraw all cases from the courts, and on 23 September 2021, the bank decided to withdraw claims submitted in bankruptcy/probate cases. According to the bank, all cases were withdrawn from the courts in the autumn of 2021, with the exception of six complicated cases that the bank is analysing separately. The process for withdrawing claims submitted in bankruptcy/probate cases has not yet been completed, including because of complications in the process necessary to identify relevant cases. It is our understanding that the bank expects to have completed the withdrawal in the fourth quarter of 2021. Reference is made to section 6.5.1 and the additional issue described as no. 1 (section 9.4.1) for details about the bank's general actions in relation to bankruptcy/probate cases.

In the period from June 2019 to June 2021, the bank has, according to the information provided, manually reviewed and corrected some 9,000 cases in the DCS and about 4,000 cases in the PF, which have been flagged as corrected on an ongoing basis. At meetings with the bank, we have received an introduction to the team's work on processing cases and have received the processing instructions and fact sheets in accordance with which the team, according to the information provided, is working. In this connection, we have asked to receive details of specific sections and approaches, which the bank has explained in more detail in written answers. In this connection, it should be noted that the manuals used in certain areas could be more detailed, and that the manuals require that the case handlers have prior knowledge of legislation on statute of limitation and the bank's practice at different periods of time. In this connection, the bank has informed us that all employees involved in the correction team undergo a training programme prior to the preparation of cases and that training material and videos have been prepared for this purpose. We have not reviewed this material during the course of this investigation.

We also note that the manual review and correction of cases can be a very complex task, especially in cases prior to 2004, where documents from previous systems and archives have had to be produced and where the limitation rules have been changed along the way. The work requires a significant accuracy from the individual case handler, who is charged with correctly identifying interest, fees and principal amount in relation to all sub-amounts. The individual case handler is also charged with making a correct assessment of the amount of time-barred debt, taking into account ongoing steps, payments, etc. that would suspend the limitation period. Consequently, the complexity inherent in the task, and thus the risk of errors, call for a fair and adequate control of cases.

The bank has informed us that a monthly spot check has been introduced as part of the correction process. In the spot check, 15 randomly selected cases are reviewed by an experienced specialist at

the bank who examines the case for verification of the result. In this connection, it should be noted that the bank's work on manual correction of cases showed a not-insubstantial error rate, which is explained in connection with the bank's own spot check-based review of the cases.

The high percentage of errors is seen in particular to have affected cases in periods prior to October 2020, from which time the bank has implemented manuals and checklists for the manual review of the cases. For example, according to the information provided, the bank found high error rates of more than 30% in the first half of 2020, however the distribution of critical and non-critical errors has not been explained to us in detail.

As appears from minutes of meetings in the bank, in December 2020, the bank was aware of the high error percentages and that samples were taken at the time for the purpose of reassessing selected cases. However, we have not gained insight into the sampling process and the decisions that were made in the bank on the basis of the samples. On the basis of the information available, we cannot therefore rule out that there may be errors in corrected cases that may have formed the basis for enforcement proceedings, forced sales and claims in bankruptcy/probate court cases during the relevant period.

In this connection, on 10 May 2021, the bank decided that cases previously flagged as green should be checked using the models described in section 7 that have been used to calculate compensation due to the four root causes, with the process being expected to begin in the fourth quarter of 2021. A detailed description of the specific approach and timetable has not been received.

Overall, we believe that with the implementation of the red/green controls as described, the bank has implemented substantial measures to counter the risk of debt collection actions being initiated or claims being submitted in ordinary courts or probate/bankruptcy courts by the bank unless the claim has not first been reviewed and corrected for errors related to the four root causes. However, as described above, it has been shown that the corrections have been subject to a not-insubstantial error rate since the summer of 2019, as uncovered by the bank's own spot checks, and, according to the information provided, the bank has not yet decided whether the cases previously flagged as green should be checked using the models described in section 7.

As stated above, there are approximately 9,000 cases in the DCS and approximately 4,000 cases in the PF that have again been flagged as red cases following manual review.

#### **6.4 Suspension of payment agreements and interest accrual (Pause logic)**

On 21 September 2020, the Danish FSA ordered the bank to stop collecting debt for all existing customers of its debt collection department unless there was an insignificant risk that money would be collected from a customer that the customer in question did not actually owe to the bank. The bank should also ensure that this was done at no cost to the customer. Finally, the bank should

allow the customers concerned to suspend the settlement of their debt without any additional costs to the customer.

In addition, the bank was ordered by individual communication to inform all customers who could be affected by wrongful debt collection of this matter, including the nature of the errors in question, by individual communication. In this connection, the bank's communication to customers is described in section 6.6 below.

Immediately following the order, the bank implemented a so-called Pause logic end-September 2020, which applies only to all debt collection cases in Denmark in the bank's debt collection systems, DCS and PF, if the case has not been reviewed and corrected in relation to the four root causes. Accordingly, the logic only applies to red-flagged cases, see section 6.3.

The Pause logic, which at the time of our publishing of this report is still applied by the bank, implies automatic suspension of payment agreements in red cases if at least 60% of the original opening balance in the debt collection systems has been paid, i.e. the original principal amount plus interest and fees etc. transferred to the debt collection systems from the banking systems (transferred for 'hard collection', see section 6.1).

In the autumn of 2020, the bank's customers were also informed by personal letter of the risk of errors in the bank's collection systems, and all red-case customers were given the opportunity to contact the bank, irrespective of the extent of their previous payments, to suspend the settlement of their debt completely for the time being until a decision has been taken regarding their case. This also means that customers were given the opportunity to terminate existing payment agreements free of charge.

Finally, according to the information provided, the bank suspended from 1 October 2020 the calculation of interest for all active debt collection customers in Denmark whose cases had not been flagged as green before this date (see section 6.3)<sup>5</sup>.

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<sup>5</sup> We note that on 28 October 2021, the bank informed us of challenges associated with the technical implementation of interest accrual suspension in the PF system. In this connection, the bank has informed us that the interest accrual suspension is therefore implemented as a manual correction at customer level and not via the system. It is unclear to us at this stage whether this entails a risk that payments from PF debt collection customers made in the period after October 2020 may have been used to cover interest that the bank has otherwise indicated to its customers that it would not charge, and whether, due to the lack of technical implementation in the PF system, interest amounts that the bank has indicated that it would not charge are still being reported to the tax authorities. We understand that the bank will investigate this and that customers – if this is the case – will receive full compensation. Since the information about accrual of interest in the PF system was received close to the submission date for this report, it has not been possible for us to clarify the situation further.

According to the information provided, the initiatives implemented to suspend payment agreements and calculation of interest apply only to cases that are open in the bank's debt collection systems because debt collection is not carried on nor does interest accrue on closed cases.

The Pause logic covers cancellation of active payment agreements and/or blocking of incoming payments to accounts. Consequently, the Pause logic complements the red/green checks by also suspending payment agreements and rejecting payments so that any debt collection and charging of amounts are stopped by the bank if 60% or more of the debt subject to collection been repaid or if the customer wishes to stop settlement of the registered debt to the bank until the case has been corrected.

It is noted that, according to the bank's communication, the customer can always contact the bank if the customer would like to continue repayment, despite the risk of overcollection. In such cases, the bank will inform the customer of the risk of overcollection and will also inform about subsequent repayment and compensation should the customer end up paying too much.

The bank has chosen the aforementioned 60% debt-repayment threshold on the basis of analyses of the risk that an error in the registered limitation dates may lead to overcollection from the customer (root causes 1 and 2). The bank's statistical modelling has shown that setting a 60% debt-repayment threshold ensures that 97.5% of customers do not risk paying too much.<sup>6</sup> Consequently, the bank considers the risk of overcollection to be insignificant. In this connection, the bank has stated that the 60% debt-repayment threshold is based on analyses of approximately 40,000 cases and that the analyses are based on results from early recalculation of a number of cases in the DCS model (see section 7.3.1). The Pause logic is first described in the bank's response to the Danish FSA of 10 September 2020.

We have asked the bank a number of questions about the Pause logic, including the basis for the 60% debt-repayment threshold. In this connection, the bank has stated that when calculating the 60% debt-repayment threshold, only the debt that was transferred from the bank's previous debt collection systems is included as well as payments used to cover these amounts. However, interest accrued after the transfer to the debt collection systems or payments used to cover it are not included. In response to a request, the bank has stated that it would be possible to include accruing interest in the calculations, but that, in the bank's opinion, this would not lead to a change in the model. According to the bank, the current interest is usually reduced by a relatively small amount, and both the interest (debt) itself and the payments to this should be included in the calculation. In addition to this, the bank has pointed out that the 60% debt-repayment threshold does not

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<sup>6</sup> The bank's documentation shows that a confidence level of 97.5% is reached at a payment threshold of just over 62%. However, the bank has decided to suspend payment agreements already at 60% and has thus chosen a slightly more cautious approach.



represent the precise dividing line for when overcollection may occur, but rather reflects a conservative threshold for avoiding overcollection.

We have no comments on the bank's assessment that the risk of overcollection is insignificant if the specific repayment threshold for the Pause logic ensures that 97.5% of customers are not at risk of overcollection, even if, all other things being equal, a small proportion of customers may be at risk of overcollection. We therefore consider it important that the Pause logic only applies to payment agreements, while more intrusive debt collection measures such as enforcement proceedings, registration in RKI or notification in bankruptcy and probate cases require that the bank's correction team has made an individual and specific assessment of the customer's case. Furthermore, we emphasise that all customers – irrespective of whether their debt is above or below the repayment threshold – have the opportunity to request that their case may be suspended until it has been reviewed and corrected for any errors.

The bank's assessment that the risk of overcollection is insignificant for customers who have repaid less than 60% of the debt is shown to be substantiated for customers registered in the DCS who are only affected by root causes 1 and 2, see above about the investigation of approximately 40,000 cases carried out by the bank in the DCS model.

However, the bank is not seen to have prepared similar analyses or sample checks to substantiate that the 60% debt-repayment threshold for the Pause logic generally ensures that the risk of overcollection is insignificant if all errors and issues related to the bank's debt collection are taken into account.

The bank's setting of a 60% debt-repayment threshold for customers in the PF is also based on the investigation of about 40,000 cases in the DCS model. However, documentation has not been provided to us that the customer groupings in the DCS and the PF, respectively, have characteristics (age of the debt, correlation between interest and principal amount, etc.) that are identical to such an extent that the bank's review of a customer group in the DCS is suitable basis for a risk assessment of wrongful debt collection from customers in the PF. On 28 October 2021, the bank informed us that as a consequence of this the bank had carried out an analysis of cases in which payment of compensation to customers had been made from the PF system and that the bank concluded that the 60% threshold was sufficient for the PF system as well.

In particular, as regards root causes 3 and 4, it should be noted that the 60% debt-repayment threshold will not protect the customer from overcollection if the debt has already been paid by a co-debtor. On request, the bank has confirmed this to be the case. In this connection, the bank has pointed out that the compensation calculations for these cases have been completed with the findings that only a few customers are entitled to compensation, and we therefore understand that the bank considers the risk of current overcollection to be insignificant. The bank seems only to have become informed of the status of the cases following the bank's review of the cases in the

spring of 2021, which is why the risk of overcollection could not be ruled out when the Pause logic was implemented in the autumn of 2020.

Furthermore, we note that the 60% debt-repayment threshold is no guarantee that these customers will not pay too much in future if a customer chooses to continue paying via a payment agreement or in any other way. According to the information provided, the bank has identified some 5,800 active customers who may be affected by root causes 3 or 4, and the bank will therefore in our opinion be able to identify the exact number of cases and introduce a complete stop for payments in cases where the customer does not request to continue the payments. In this connection, the bank is not seen to have advised these customers separately about the risk of overcollection, nor is it seen that the bank has implemented special measures to prevent these customers from paying more than they owe during the period leading up to the correction of data. It should be noted that in other special cases, the bank has chosen to implement an extended Pause logic (see section 6.5.2 on outsourced cases to external debt collection agencies), and that the bank could therefore, to our understanding, have put cases affected by root causes 3 and 4 on hold irrespective of the extent of previous repayments.

As mentioned, the Pause logic applies only to so-called red cases that have not yet been reviewed and corrected with respect to any errors (see section 6.3 above). When the bank implemented the Pause logic in the autumn of 2020, a number of customers were not immediately included because the bank considered them green-case customers and adjusted for the four root causes. However, according to the information provided, the bank has again flagged all accounts as red cases as a result of the additional issues identified (see section 6.3 above) with effect from 5 July 2021, and all accounts are accordingly also today included in the Pause logic. There will, however, be customers who were not included in the logic from the outset and whom the bank may therefore have informed that there was no risk of errors in their case. In addition, the accrued interest may be unjustified (in whole or in part) as a result of the additional issues. In this connection, the bank has informed us that the suspension of interest accrual in these cases from 1 July 2021 was introduced with effect from 1 October 2020 and that the bank will compensate customers for any payments made to cover any interest accrued in the meantime. However, the bank has informed us that a process and procedure have not yet been established for calculating this compensation, but that the customers affected have been informed that the bank will provide compensation for this. We have not seen an example of this letter. See section 6.6 on the bank's communication to customers.

According to the information provided, the interest rate is currently set at 0% for all customers registered in the debt collection systems<sup>7</sup>, and this rate was set with effect from 1 October 2020 – the bank does not expect to change this 0% rate prior to correction of data in the debt collection systems (so-called "write back"). See section 4.2 for the timetable for the bank's implementation of

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<sup>7</sup> See the previous comment regarding challenges associated with the technical implementation of interest accrual suspension in the PF system.

the corrections to the individual customer's debt balance. In relation to the customer's option of suspending payments, the bank has, in general, ensured that any suspension of payments is done without interest costs for the customer. Moreover, in cases where the customer is required to continue repayment, the bank has stated that customers will be reimbursed in the event of that they end up having been overcollected. The process for this has not yet been described to us as this is expected to be part of the bank's further work on correction and re-input of correct data.

As described, the Pause logic was implemented in the autumn of 2020 to counter the risk of overcollection due to root causes 1 and 2. However, the bank has identified a number of additional issues that, according to the bank, are the reason why the bank has decided to flag all cases as red cases again in summer 2021, thereby including them in the Pause logic. In this connection, we have not received any documentation to the effect that the bank, when it implemented the logic in the autumn of 2020 or subsequently, decided whether the additional issues may affect the size of the debt in such a way that this would require an adjustment of the 60% debt-repayment threshold.

In our opinion, the existence of the additional issues entails a certain increase in the risk that a 60% debt-repayment threshold in each case will not prevent overcollection, and in this connection, the bank has not satisfactorily demonstrated, by means of calculations or estimates, that the 60% debt-repayment threshold continues to ensure that the risk of overcollection is in all cases insignificant in the cases where customers continue debt repayment.

It is our understanding that the Pause logic and the 60% debt-repayment threshold must also be seen in the context of whether each customer has been informed of the possibility that the customer's case may be affected by errors and whether the customer has been advised that payment agreements can be suspended at no cost to the customer. Here, it should be noted that the process of sending out customers letters informing of the risk related to additional issues, as communicated by the bank on 12 October 2021, remained uncompleted in relation to a not-unsubstantial proportion of potentially affected customers (see section 6.6.2) as the bank expects to have notified the last of these customers by the end of October. To the extent that the 60% debt-repayment threshold is not in itself sufficient to protect the customer from overcollection, there seems to be a risk that the customer has not been informed in all cases of the risk of (additional) errors before the end of October 2021.

We have noted that on 15 October 2021, the bank decided to change the Pause logic so that all payment agreements are automatically suspended regardless of the amount of payments already made by the individual customer, unless a customer actively expresses a wish to continue payments despite the risk of overcollection. We have also noted that bank intends to implement the decision for affected customers as of 1 December 2021. At the same time, we note that all of the bank's customers – to the extent that the bank has relevant contact information – according to the information provided will have been informed of the additional issues by the end of October 2021 at the latest. Against this background, we believe that the risk of future overcollection from

customers affected after 1 December 2021 must be considered insignificant if the bank's decision is implemented as announced.

## **6.5 The bank's case handling and measures in special cases**

When a customer has been transferred to the bank's debt collection systems as a result of default, the further process depends on the specific circumstances of the case. This section describes the preventive measures implemented by the bank to avoid wrongful debt collection in particular because of the four root causes in connection with (a) lawsuits and the filing of claims in probate cases and (b) the outsourcing of debt collection to external debt collection agencies.

Additional consequences and issues (the so-called "additional issues") and the bank's efforts to counter these are described in more detail in section 9. Errors in connection with probate cases are in this connection dealt with as issue 1 (section 9.4.1), while errors in debt collection cases involving external debt collection agencies are dealt with as issue 13 (section 9.4.13).

### ***6.5.1 Court cases and probate cases***

In order to counter the risk of further errors due to the four root causes, the bank decided, according to the information provided, on 17 December 2019 to withdraw all ongoing cases from the courts or to adjust the claims submitted in the cases, including cases heard by the bankruptcy and probate courts. These cases were withdrawn or corrected and resubmitted in the period up to March 2020. According to the information provided, the cases are assessed according to the red case check process described in section 6.3.

Post-processing and considerations about continued debt collection in withdrawn cases where the claim has not later been resubmitted are treated by the bank as one of the additional issues (see section 9.4.1). In this connection, the bank has stated that errors in the correction of PF cases (see section 9.4.3) have led to (re)submission of incorrectly calculated claims. According to the bank, this was handled at the end of 2020 through renewed review and resubmission of claims in 16 cases. Reference is made to section 9.4.1 for further details.

According to the bank, since summer 2019, no new cases can have been brought before the court without a manual review and possible correction of the case having been made. According to the information provided, this decision was taken in the summer of 2019. A case therefore had to be corrected by the correction team before the bank's case officers could file a claim in a case with the probate/bankruptcy court or apply to the enforcement court for levy of execution, etc. This was thus part of the red/green check described in section 6.3 above.

However, we see from the bank's letter to the Danish FSA of 20 September 2021 on claims submitted to estates of deceased persons that, from 10 January 2020 to August 2021, the bank has submitted 'preliminary' claims that have not yet been corrected with estates of deceased persons

on the basis of the assumption that the bank would be contacted before the final calculation of any dividend entitlement. However, as described by the bank in the mentioned statement, errors in this process have led to claims in 840 cases being inadvertently submitted as final without the relevant reservations, with the result that in some of these cases, the bank may have received dividend on the basis of too large a claim. As a result, the bank has notified the Danish FSA, and we expect that the issue will be addressed as part of additional issue no. 1 (section 9.4.1).

In some bankruptcy/probate cases (especially estates of deceased persons and debt relief cases), the bank's claim may be barred from further action if filing is not made within a time limit set by the court and published in the Danish Official Gazette. In bankruptcy cases, filing may be excluded if the proceedings regarding the bankruptcy estate have been closed. The bank has informed us that in such cases, the bank did not file a claim if the correction team could not recalculate the case within the court's deadline. According to the bank, the processing of such claims, including in relation to cases in which the bank has registered co-debtors and guarantors, has not yet been finally clarified, but the bank has stated that it intends to obtain external legal advice about this. Reference is made to section 9.4.1 on the bank's work on issue no. 1.

As described in section 9, a large number of additional issues have been identified over the past year, which could potentially affect the correct calculation of the claim and thus the bank's claim in court cases as well as claims submitted in bankruptcy/probate court cases. In relation to cases outside the bankruptcy/probate courts, the bank has informed us that in July 2021, the bank as a consequence completely stopped issuing summonses and claims for payment with the courts, as manual correction has not been able to take into account the additional issues that have been identified at the bank.

According to the bank, the bank continued to submit cases to the bankruptcy/probate courts until 23 September 2021 if they could be corrected for the four root causes and the issue regarding interest on reminder fees (see section 9.4.2), and only if it was necessary for special reasons, for example because failure to report the bank's claim was considered to be detrimental to the customer. This could be the case, for example, in relation to the filing of claims in connection with a customer's application for debt relief. However, on 23 September 2021, as a result of the risk of errors in the calculation of the bank's claims, the bank decided to no longer submit claims from the bank's debt collection department in bankruptcy/probate cases. The bank has explained to us that subsequently claims are submitted only in the so-called 'insolvency cases' (business cases), which, we understand, are not generally created in the bank's collection systems for a long time before this, and the bank therefore considers the risk of errors to be smaller.

In this connection, the bank has further informed us that it handles all bankruptcy/probate proceedings itself and that the cases are taken back from external debt collection agencies in the event of a customer's death, debt relief application, bankruptcy or reconstruction. Moreover, the bank has informed us that since 23 July 2021, the bank has included a reservation in connection with the filing of claims with the bankruptcy/probate courts, and that the bank has thus indicated

the risk that the claim may not be correct. We have not received examples of these letters with the reservation from the bank. The bank has also informed us that it is working to register customers who may be affected by the respective additional issues, and that there are or will be prepared guidelines for case officers. However, we do not have any further insight into this process, including whether the bank has the data required to identify affected customers in relation to all additional issues.

The measures described above and the subsequent reservations stated in the bank's filing of claims are not considered to mitigate the risk of errors in cases that already prior to 23 July 2021 had been corrected and claims submitted by the bank to bankruptcy estates and estates of deceased persons and in debt relief and reconstruction cases. In this connection, the bank has stated that as a result of errors in the process for sending letters, bankruptcy estates and estates of deceased persons are not expected to receive information from the bank about the risk of errors in submitted claims (see section 6.6) until October 2021. In this connection, the lack of information appears to pose a risk that will not have been mitigated solely via the red flagging of cases carried out in summer 2021, and the Pause logic applied at the same time in these cases (see sections 6.3 and 6.4 for more information).

In this connection, as stated, the bank decided end-May 2021 to withdraw all cases from the courts, whereas on 23 September 2021, the bank decided to withdraw claims in bankruptcy/probate cases. According to the bank, all cases were withdrawn from the courts in the autumn of 2021, with the exception of six complicated cases that the bank is analysing separately. The process of withdrawing claims submitted in bankruptcy/probate cases has yet to be completed, among other things due to the complexity involved in identifying these cases. It is our understanding that the bank expects to have completed the withdrawal in the fourth quarter of 2021.

### **6.5.2**      *Cases outsourced to external debt collection agencies*

The four root causes may also have affected customers for whom the bank has outsourced debt collection to external debt collection agencies. The bank has informed us that no new cases have been sent to external debt collection agencies since October 2019. When such practice may be resumed depends, among other things, on the bank's analyses and resolution of issue no. 13 (see section 9.4.13), which deals with challenges regarding the exchange of information between the bank and the agencies.

In cases outsourced to external debt collection agencies before October 2019, we have been informed that it has been difficult for the bank accurately to determine a repayment rate that would eliminate the risk of overcollection. Consequently, the bank has informed us that in September 2020, in all cases that have been outsourced for external debt collection, it has chosen to implement the Pause logic (see section 6.4) to the effect that all collection has been fully suspended, regardless of the amount of payments already made by the individual customer. However, when customers repay debt that has been outsourced to external debt collection agencies,

this is done to the agency's account, which is not necessarily with the bank. Consequently, according to the information provided, the bank does not have the option of blocking incoming payments to accounts in these cases, and a separate effort is therefore made through a manual process to minimise the risk of overcollection. According to the information provided, the bank screens payments coming in from external debt collection agencies on a monthly basis and contacts customers making such payments individually. According to the information provided, the customer is informed of the risk of overcollection and is offered a refund from the bank unless the customer wishes to continue making repayments despite the risk of errors and overcollection.

The bank has also stated that interest rates have been set at 0% in all cases handled by external collection agencies from the same date (1 October 2020) as in the bank's own debt collection systems.

The bank treats the special issues related to cases with external debt collection agencies and the bank's work to remedy these issues as issue no. 13, and reference is made to section 9.4.13 for further details.

## **6.6 Communication to customers about preventive measures**

As stated in section 6.4, on 21 September 2020, the Danish FSA ordered the bank to inform all customers who could be affected by erroneous debt collection of this by means of individual communication. Furthermore, as a result of the additional issues identified, the bank was ordered to inform affected customers by means of individual communication as soon as the bank has established with a sufficient degree of certainty that the customer belonged to a group that may be affected by the errors identified.

In this connection, according to the information provided, the bank sent letters to all of the bank's debt collection customers in the autumn of 2020 stating that there were errors in the bank's debt collection systems. After the bank decided, in summer 2021, again to flag all debt collection cases in its systems as red due to the additional issues identified, the bank has moreover sent out new letters to the customers. The process of communicating with customers in two stages is described in more detail below.

### **6.6.1 *Communication to customers about the four root causes***

As mentioned, the bank has informed us that in the autumn of 2020, immediately after the order issued by the FSA on 21 September 2020, letters were sent to the bank's debt collection customers. The bank has described the process of sending these letters to us, and we have reviewed examples of letter templates.

All letters are seen in this connection to inform the customer that there are data errors in the bank's collection system and that the bank may have collected debt, including interest, to which

the bank was not entitled. The bank also informed the customers whether the bank had reached a conclusion as to whether the customer's case was specifically affected by the error, including if the bank had assessed that this was not the case (that is, if the case had been given a green flag by the bank's correction team). In addition, where the bank could not yet say whether the customer was affected by the error, the letters stated that the accrual of interest was stopped and that if the customer had paid more than 60%, payment according to existing payment agreements was suspended. The letters also detailed whether the individual customer was registered as debtor or co-debtor/guarantor.

According to the information provided, all potentially affected customers that the bank could contact received a letter. This applies both to customers with cases in the bank's own debt collection systems and to customers whose cases were outsourced to external debt collection agencies. However, the bank has informed us that a group of about 30,000 customers is outstanding, as it has not been possible for the bank to contact them because of missing or incorrect contact information. In this connection, the bank has sought to contact customers through several communication channels, including e-Boks, ordinary post and the customer folder in the bank's own system, which the customer can access via Danske eBanking. From meeting materials from the bank date June 2021, we can deduce that the vast majority of the customer cases were closed at the bank, but that there were also 416 active customers from whom the letter was returned.

According to the information provided, the bank has also sent new letters in cases where new customers have been transferred to the bank's debt collection systems and if the customer's risk profile has changed. If, for example, the customer continues to pay, a new letter will be sent informing the customer about the suspension of payments when 60% of the debt has been repaid. In addition, the customer will be informed if the bank's correction team has checked the case and found that the customer is not affected by the errors.

According to the information provided, the bank has also chosen to notify customers whose cases have been closed without payments, as they may be potentially be affected by additional issues (see section 9). Preliminary information has been provided to the effect that at the end of June 2021, notification had been sent to about 10,000 out of the total of about 57,000 customers. For these customers, it is not the intention to avoid overcollection, as the account, as stated, has been closed, but the information may be relevant to enable the customer to report any indirect losses incurred as a result of the customer at some point being registered with an incorrect debt amount, just as information about the debt may have been disclosed to third parties, including the Danish Tax Agency and RKI.

Overall, we believe that the bank's communication process in relation to customers who have not previously been green (see section 6.3 on red/green checks) has ensured that in the autumn of 2020, these customers have been informed of the risk of continuing repayment and the possibility of suspending payments until the bank has reviewed their cases. However, in the approximately 30,000 cases in which the bank, despite its efforts to do so, has not been able to contact the



customer, the customer has had the opportunity to familiarise themselves with the situation on the bank's website and in press releases.

It should be noted that customers will probably not be able to determine the nature of the error(s) affecting them on the basis of the bank's letters. However, as the customers have been informed that there may potentially be more errors and have the opportunity to contact the bank for further information about those, and as the customers have been informed about the possibility of suspending repayment of their debt at no cost, we believe that the bank's communication in this regard has been sufficient.

However, for the proportion of customers whose cases the bank had corrected and flagged as green already before the first letters were sent or later, the customer will, however, have received a letter stating that their case is not affected by the errors. However, since this has subsequently proved potentially to be incorrect due to the additional issues identified, there may be a risk that these customers will not be aware of the risk of overcollection if they continue repayments. For these customers there is therefore a special need for follow-up communication, which has not always been met, see below.

#### **6.6.2      *New communication as a result of additional issues***

As previously described in this report, including in section 9, the bank has identified additional issues in its debt collection systems on an ongoing basis, and this has led to uncertainty as to whether, in view of the additional issues, green flag cases could in fact be considered to have been corrected and correctly calculated. In June 2021, the bank therefore decided to red flag all cases again, and the cases previously corrected are now also covered by the Pause logic.

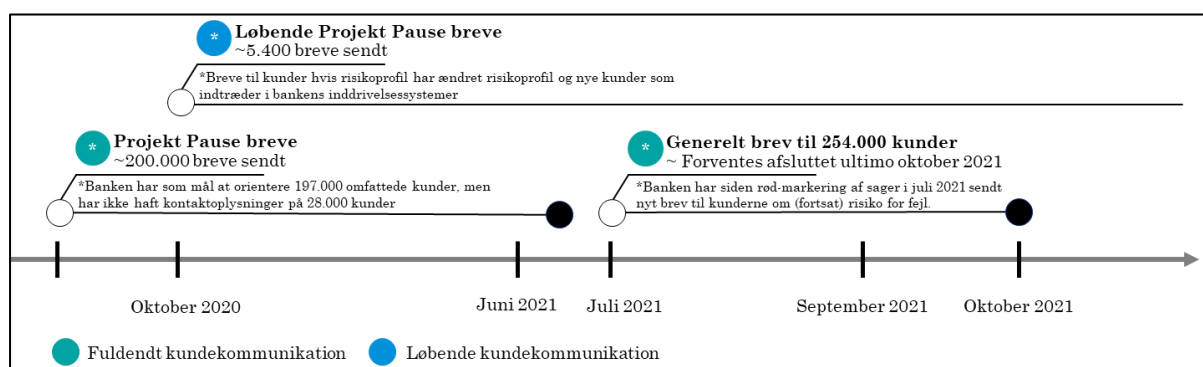
In this connection, the bank has stated that since July 2021, new letters have been sent to those customers who could be at risk of overcollection due to the four root causes and/or the additional issues. Customers who have received the letters in questions have been informed whether they are considered to be affected by the four root causes of errors and that there is a risk of additional errors. It should be noted that only some of these customers have received compensation and information about the payment of such compensation, as many of the affected customers will only have their outstanding debt adjusted as a result of root causes 1 and 2, as the bank has assessed that they are not entitled to cash compensation as a result of overcollection.

According to the information provided to us, the above-mentioned letter is to be sent to 254,000 of the bank's customers (see the figure below). On 15 October 2021, according to the bank, letters had yet to be sent to around 60,000 customers, however, which according to the bank is due to delays and errors in the letter process. According to the information provided, these are English-speaking customers, business customers, guarantors, bankruptcy estates and estates of deceased persons. The bank has since informed us that it had sent letters to these customers by the end of October 2021.

As regards customers whose cases were considered green prior to June 2021, it is our understanding that they will have been informed earlier in the process that the bank had reviewed their case and found that they were not affected by the errors in the bank's debt collection system. Thus, there seems to be a risk since it is uncertain whether these customers have been informed about the risk of additional errors having led to the bank's decision to red flag these cases again. It should be noted that the bank's claims in such cases may today have been submitted in relation, for example, to the customer's bankruptcy estate or the estate of a deceased person, without reservations for any further errors.

The figure below illustrates the bank's general communications to customers, including a general letter as a result of the latest red flagging of all cases in summer 2021 (see section 6.3). The communication in the chart is divided into communication tracks, which illustrate when the bank started to inform customers affected or potentially affected and when the sending of letters is expected to be completed.

*Figure 5 – illustrative timeline for customer communication regarding the bank's general communication:*



The bank has informed us that there is a group of customers whom it has not been possible for the bank to contact because of a lack of or incorrect contact information (see section 6.6.1 above). It is therefore also assumed that a similar proportion of the 254,000 customers do not receive the bank's general letter sent out from July to October 2021.

In continuation of the above it should be noted that the bank has followed up on the above-mentioned general letters by from September 2021 sending more specific letters to customers who may be affected by one or more of the additional issues. In this connection, in view of the large number of additional issues identified, the bank considers it expedient to gather communication about several issues in the same letter in order not to send customers an unnecessary number of letters. As a result of delays, at 15 October 2021, this process had ALSO not been completed for some customers. Reference is made to section 9.3.1.1, which also contains a list of the specific letters on the additional issues that, according to our information, have been or will be sent to the bank's customers in this connection

## 7. COMPENSATION FOR THE FOUR ROOT CAUSES

### 7.1 Customers covered by the bank's compensation calculation

As described in section 5.2, the bank has identified the customers who may be affected by one or more of the four root causes and who, for this reason, may have been charged a larger amount than the amount actually owed by the customer to the bank. In this connection, the bank has assessed that customers with debt raised outside Denmark (foreign customers) and customers in Denmark where the case is closed without payment, are not at risk of overcollection due to the four root causes, and these cases are therefore not recalculated.

On the other hand, the remaining customers in the debt collection systems (approximately 197,000 customers at December 2019) have been recalculated to assess whether the customer could be entitled to repayment and compensation due to the four root causes of errors. In this connection, most cases have been analysed using data models prepared for the bank by Ernst & Young, whereas a lower number of cases have been assessed manually due to complexity or inadequate documentation. The various approaches and comments are described in the following sections 7.3-7.5.

The table below shows the number of customers assessed in the models used by the bank and the number of such customers found to be entitled to repayment and compensation.

*Figure 6 – Summary of customers found to be entitled to repayment and compensation:*

	Calculated using the model (no. of customers)	Entitled to compensation (no. of customers)
DCS model (root causes 1-2)	181,709	3,958
- DCS, statistical model	28,138	2,656
Root cause 3	7,603	-
Root cause 4	3,669	6
PF model	69,468	57
Business decisions	4,919	394
Manual review (QA team)	5,280 <sup>8</sup>	896 <sup>9</sup>

<sup>8</sup> It should be noted that the bank has calculated the number of customers that need manual review at 5,226, with the number being determined by the bank's Q&A team, whereas the 5,280 number has been determined on the basis of the bank's data extracts. The difference relates solely to the categorisation of customers subject to either manual review or model calculation, and all customers have thus been reviewed either by the models or manually.

<sup>9</sup> All Q&A cases in which the bank has been able to reach a conclusion at 29 October 2021.

The models above have thus resulted in a total compensation to customers of about DKK 43.9 million as at 18 October 2021, and the distribution is shown in figure 7 below. On 31 October 2021, the bank informed us that the total compensation would amount to about DKK 50.6 million, including the remaining cases from the manual review that have not yet resulted in a precise figure. This is because the time compensation has not yet been calculated in all cases.

*Figure 7 – Distribution of compensation:*

	Compensation paid (DKK)	Compensation pending (DKK)	Total calculated compensation (DKK)
DCS model (root causes 1-2)	12,305,178	5,072,249	17,377,427
- DCS, statistical model	13,978,453	5,751,663	19,730,116
Root cause 3	-	-	-
Root cause 4	84,095	79,258	163,353
PF model	845,352	228,871	1,074,224
Business decisions	783,067	1,563,108	2,346,176
Manual review (QA team)	3,241,218	Not finally clarified <sup>10</sup>	Not finally clarified
<b>Total</b>	<b>27,996,146</b>	<b>12,695,149</b>	<b>43,932,512</b>

The bank has informed us that, at 18 October 2021, compensation totalling DKK 12,695,149 had not yet been paid out to the customers found to be entitled to compensation. This is due to the fact that these relate to closed estate cases that are treated as additional issue 1 (see section 9.4.1) or that the bank is missing relevant information on the customer or that the bank has not yet paid compensation to the customers whose cases are reviewed manually by the bank's Q&A team.

It is generally noted that the bank recalculates cases and assesses the customer's claims for repayment and compensation using data models or manual processes in addition to the bank's debt collection systems and that the calculation models take any outstanding debt in the account into account. Full compensation of the customer may thus be dependent on later setoff against the registered outstanding debt in the account that served as the basis for the calculation of the compensation. Consequently, after the bank's recalculation in the compensation models, there will be accounts that still show too high an outstanding debt balance, and the customer cannot receive information about the correct outstanding debt until after a later correction or closure of the case.

For customers who have received compensation and who are still registered with an outstanding debt on the account to which the compensation calculation relates, we understand that the debt in the account in question is expected to be eliminated by the bank's "rebooking or offsetting" against the outstanding balance in the account. When paying compensation, the bank has assumed that

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<sup>10</sup> Even though the bank has reviewed all cases that have been selected for manual review by the bank's Q&A team, no final numbers are available yet, among other things because the time compensation has not yet been calculated.

offsetting or elimination in the account is to be made later, so that the account is expected to be zero. This is not currently reflected in registrations in the debt collection systems, nor is it reflected in the letters sent to customers in connection with the compensation payments, see section 7.7.

We have not fully mapped the disadvantages that this may cause for the individual customer, including the customer's possibility to make ordinary personal financial transactions, including the raising of new loans, entering into agreements etc. However, we note that the incorrect calculation of the amount in the bank's systems may lead to errors in reporting to among other the Danish Customs and Tax Administration if the bank does not take active steps to prevent this.

It should also be noted that, for customers who have already received compensation, the balance included in the basis of the compensation calculation may still be incorrect, among other things as a result of one of the additional issues described in section 9. Thus, the customers in question have not been fully compensated until the potential effects of one of the additional issues have been taken into account. Finally, reference is made to section 8.3 below, and it should be noted that the bank has decided also to pay compensation that covers any taxation of the compensation amount. However, the bank does not seem to have decided on a process for this yet.

## **7.2 The bank's approach to compensation**

Generally, the bank has approached the compensation of customers with an initial focus on calculating the repayment amounts which can be attributed to overcollection due to the four root causes.

As additional issues have been identified, the bank has also established a process for analysing them, as potential claims against the bank in this connection will be calculated separately and will be repaid on an ongoing basis as the individual issues are dealt with by the bank. As the additional issues have been identified on an ongoing basis, and as several of them require further analysis, such an approach seems to be the best possible approach for customers in the present situation. An alternative approach taking into consideration all errors for the individual customer prior to compensation would, however, imply that customers would have to wait for clarification regarding repayment for a potentially significantly longer period of time.

It should be noted, however, that many customers, as a result of the additional issues (see section 9), will not be fully compensated for all errors in the bank's debt collection systems in the models described below for root causes 1-4, and that the bank may subsequently pay additional compensation to the affected customers. This section only deals with the bank's approach to compensation as a result of the four root causes. Reference is made to section 9 on the additional issues, although the question of compensation in this connection has not been examined prior to the preparation of this report.

For the purpose of its compensation work, the bank has prepared some principles which, according to the information provided, have been followed, regardless of whether the case has been assessed manually or using data models. We have received the following description of these principles and have discussed them with the bank in relation to the bank's approaches:

1. The bank will ensure that the customers will have the same financial position as they would have had if the errors had not been made.
2. The bank will pay compensation to customers on the basis of data that goes as far back as possible.
3. If exhaustive information about a customer's case does not exist, the bank will apply assumptions in favour of the customer. The key principle is that overcollection estimated by the model should aim to exceed a manual recalculation on a correct data basis.
4. The loss calculation will be based on a model of direct loss.
5. The bank will establish a procedure for processing claims for compensation based on indirect losses.
6. On behalf of the customers, the bank will compensate the Danish Tax Agency to the extent possible for lost tax receipts due to the four root causes.

As a general principle, the bank has therefore sought to ensure that the customers will have the same financial position as they would have had if the errors had not been made and to compensate them on the basis of data going as far back as possible (items 1 to 2). In this connection, the bank has stated, among other things, that the customers' repayment claims are calculated and paid out even though the customers' claims against the bank are considered to be time-barred. According to the information provided, the bank has thus chosen to repay amounts that may have been wrongfully collected since the introduction of the bank's current debt collection systems, regardless of when the overcollection took place. We note that, as a result of this approach, many customers will be compensated by the bank to a greater extent than the customer was entitled to under Danish law.

If no exhaustive information about a customer's case is available, the bank has, according to the information provided, applied a principle according to which assumptions must be made in favour of the customer (item 3). A key principle in this respect is that the overcollection estimated by the model should always exceed a manual recalculation if it was based on actual data. In connection with the development of the computer models, the bank has therefore carried out ongoing tests to ensure that, to the extent possible, the assumptions in the model lead to the same or a higher repayment amount than a manual recalculation of the case would. This approach and quality control are described in section 7.6 below. We also note that, for customers, such an approach may

result in compensation to a greater extent than that which the customer was entitled to under Danish law.

Despite the above, it should be noted that we have identified areas where the principle has not – or has not for certain – been followed by the bank. In this respect, it should also be noted that any calculation based on estimated or assessed data implies choices which may be of greater or lesser advantage to the customer. In some cases, the bank has therefore had to make estimates or assumptions, and this inherently means that the bank will not always be able to guarantee that these are to the advantage of the individual customer. However, we have generally observed that the bank has sought to ensure that the customers are generally fully compensated or overcompensated. Please refer to our comments in the following sections.

The bank's independent calculation of repayment amounts and compensation of its customers will be based on a model of direct loss (item 4), but in addition, the bank has, however, set up a process for processing indirect losses that may be claimed by its customers (item 5). The bank's recalculation models are described in more detail in section 7.3 below, while the process for indirect and additional losses is described in section 7.9.

Compensation due to the customer's (potentially time-barred) repayment claims also raises questions about a potential tax liability on the payment. The bank has described that the bank will compensate the customers for any tax liabilities in this respect (item 6). See section 8.3 for tax considerations regarding the repayment of amounts to customers.

The following describes the approaches used by the bank for the compensation calculations. In this connection, we have had access to the documents prepared by Ernst & Young describing the various data models, including the basis of calculation, method and assumptions, and we have asked follow-up questions, which have been answered by the bank in writing or at meetings. We have not reviewed or verified specific cases, but we have discussed examples from the models with the bank.

In general, it should be noted that the documentation submitted by the bank for the models used for the recalculation of cases and calculation of compensation is preliminary versions, which are only available in draft versions. The model documentation therefore generally does not provide us with a complete overview of the models and the underlying assumptions and choices. However, the documentation for the DCS model (section 7.3.1) below is generally more detailed, whereas the preliminary documentation for the PF model (section 7.4) seems very provisional in a number of areas and does not address all relevant aspects of the model. Certain sections of the documents provided are not updated, and at meetings with us, the bank has stated that the current text is not accurate. Similarly, the documentation for the statistical model (section 7.3.2) and the models for root causes 3 and 4 (section 7.3.3) does not contain a description of the material aspects of the customer groups to which the models are applied.

The consequences of the above have been addressed by regular meetings and follow-up questions to the bank with the aim of obtaining further insight into the structure of the models. However, it has not been possible in all cases to identify the facts sufficiently to accurately conclude thereon.

It should also be noted that, according to the bank, the results of the recalculation models described will not be used for subsequent correction of data in the debt collection systems. In this connection, a final clarification of how these customers' cases will be handled in future is yet to be provided.

### 7.3 Models for cases in the DCS

#### 7.3.1 *The DCS model for root causes 1 and 2*

All customers in Denmark in the DCS system may be potentially affected by root causes 1 (interest and fees aggregated with the principal) and 2 (late limitation date). In order to identify customers for whom the two root causes may have led to overcollection, the bank has developed a data model for the recalculation of accounts and for the calculation of potential repayment amounts due to these errors in the DCS.

The bank has generally used the DCS model for recalculation of all cases that may be affected by root causes 1 and 2 in this system (see section 5.2), except for the approximately 9,000 cases that the bank's correction team has reviewed manually since July 2019 and that are thus considered to have been adjusted for the four root causes (see section 6.3). In addition, there are 10,200 cases in which the bank could not reach a conclusion using the model, among other things due to complex transaction patterns, missing data points etc. Such cases and cases with a calculated compensation of more than DKK 10,000 have been handled manually by the bank's Q&A team or on the basis of a business decision (see section 7.5).

According to the information provided, as of 18 October 2021, 181,709 customers have been assessed using the DCS model, and 3,958 have been found to be entitled to compensation. The 28,138 customers have been processed using the statistical model described in section 7.3.2 below.

On the basis of the information provided, the bank's DCS model consists of the following process steps, which together lead to a conclusion as to whether the customer should receive compensation:

- 1) Initial balances: The model first identifies the amounts owed by the customer to the bank at the time of transfer of the account to the DCS, including the share of interest, fee and principal (so-called "balance types"). For each balance type, the model also finds a start date for calculating a limitation date. This information is identified either directly in the debt collection systems, via report extracts or via manually collected data for use in the model. For some of the cases, initial balances are identified by means of a statistical model because no data exist, which enables



recreation of the actual balance. This model is described separately in section 7.3.2 below.

- 2) Recalculation in the model: On the basis of the identified initial balances, the model performs a recalculation of the case history in the DCS, taking into account transactions, the order in which debt has been covered, interest rates, etc. The model thus examines whether the customer has repaid time-barred debt. However, it is taken into account whether the amount could have covered other, non-time-barred debt in the account.
  
- 3) Interest on time-barred debt: If the customer has repaid time-barred debt, the model calculates interest corresponding to the interest accrued in the DCS (called the "interest package" by the bank) as a result of the covering of the debt. Any amount paid to the customer will consist of the amount of the repaid time-barred debt, the interest amount added and a time compensation in the form of interest on the amount paid. For information about time compensation, see section 7.8.

The three process steps and our comments in this respect are discussed below. The descriptions are based on the information provided by the bank and the model description received from the bank.

In our opinion, the bank's DCS model, as described in the model documentation, generally follows the bank's principle that the recalculation must be to the advantage of the customer. The model is thus based on a number of assumptions and principles, where the bank is found to have made choices in cases of doubt that will lead to overcompensation of the customer. The model is thus generally assumed to compensate customers to such an extent that they will receive full compensation for the direct loss they have suffered as a result of the overcollection. However, this requires a later elimination of or set-off against the customers' outstanding debt in the account that has been used as a basis for the calculation of compensation, which has not been communicated specifically to the customers at present. In our opinion, customers who have not received this communication will be fully compensated for the four root causes when they have received the planned notice of the elimination of or set-off against the outstanding debt, see section 7.7.

In our analysis of the model, we have found one assumption that may have led to an incorrect result in the model for some customers. The assumption relates to repayments received from customers through the collection agencies used by the bank. This risk is described below in process step 2 on recalculation. We understand that our comment has led to an ORIS report at the bank. We expect that the ORIS report in question will result in the bank deciding on a potential need for correction in the compensation calculations already made – possibly as a future "additional issue" or in connection with the development of a model for compensation for additional issue no. 13.

### *Process step 1 - Initial balances*

The first process step in the model is to identify the amounts (principal, interest and fees) owed to the bank by the customer at the time when the account was transferred from the bank's previous debt collection systems to the bank's debt collection system DCS and where, as a result of root causes 1 and 2, the amounts might have been aggregated and registered with an incorrect limitation date (see section 5 on the root causes). This information on the initial balances is thus used as a basis for the model's recalculation.

We have received a description of the dates which the model is assumed to use as a basis for the calculation of the limitation period for defaulted loans, overdraft on accounts and overdraft facilities, respectively. The bank has informed us that these dates have been cleared with the bank's legal experts, and the dates described do not in themselves give rise to comments. However, we have enquired about the procedure for identifying the dates via the sources available for the model. In this connection, it should be noted that, according to the model description, the start date for the model's limitation calculation for overdraft facilities depends on whether a transaction in the account made after the last unauthorised overdraft is deemed to have been made by the customer or the bank, which is in accordance with section 6(2) of the Danish Limitation Act. In this connection, the bank has, according to the information provided, agreed on an approach with specialists in the bank, so that transactions in specific tables are considered to be the customer's or the bank's, respectively.

We have enquired about the bank's use of the tables in question, and we have been informed by the bank that the bank considers only individual transaction tables to contain pure customer transactions. However, where there is doubt, the model considers it a banking transaction that does not postpone the start date for the model's limitation calculation. We understand that the assumptions have been tested in connection with the development and implementation of the model and that no deviations have been identified in this connection (see section 7.6).

For the manually collected information, it is noted that, in connection with the collection, interest and fees, according to the information provided, are recorded as one total amount with one start date for the purpose of the limitation calculation. The bank has assessed that this approach to the recalculation of the case in the DCS model will always lead to an assessment to the advantage of the customer, as an earliest possible limitation date for the total amount of interest and fees is recorded in connection with the data collection. The bank has also stated that the information collected is not expected to be used for a subsequent correction of data in the debt collection systems, where a final solution is still being prepared. Therefore, the matter does not give rise to any further comments.

### *Process step 2 – Recalculation in the model*

According to the information provided, in the second process step, the DCS model performs a recalculation of the account on the basis of the identified initial balances and their limitation dates. According to the information provided, this recalculation takes place on the basis of information registered about the case history in the DCS, including information about payments in the account, the order in which debt has been covered, corrections, write-offs, debt relief, etc.

According to the information provided, the purpose of the above-mentioned recalculation in the model is to identify whether payments may have been used to cover one or more balance types (usually interest and fees) after the date on which they should have been written off as time-barred in the system. However, according to the information provided, the model takes into account whether, at the time of repayment, there were other and non-time-barred debt in the account that the payment could be used to settle. For example, a repayment in a simulation in the model may be allocated to cover the principal instead of interest/fees that should have been written off at the time of repayment.

In continuation of the above, we have discussed with the bank what information is available for the model's recalculation and what the model takes into account in this connection. It should be noted that, according to the information provided, the model only seeks to take into account root causes 1 and 2 and that, according to the information provided, for example, the issue regarding interest on reminder fees (see section 9.4.2) is not taken into account. Information about the interest rate for the account is retrieved from tables in some of the bank's other systems, and in this connection, it is noted that errors have been detected regarding the interest rates used in the system (see section 9.4.6), which may thus affect the overall assessment. However, according to the information provided, as the model is solely intended to assess whether the customer is entitled to a repayment due to root causes 1 and 2 (time-barring), the above is not considered to be a model error. It should be noted, however, that for a number of customers this will not constitute final calculation of the total outstanding balance if other errors result in an additional claim against the bank, see below on the additional issues identified (section 9).

We note that the model as described to us is based on a number of assumptions made on the basis of clarifications with specialists at the bank. In this connection, the model is based on the assumption that any repayment received through an external debt collection agency will be a voluntary payment from the customer and thus an action that suspends the limitation period.

As stated above, we have not reviewed specific cases, but have asked the bank for the reasons for the above assumption regarding repayments received through debt collection agencies. According to the information provided, the assumption is based on a discussion with the bank's specialists, and no actual analyses have been made in this connection. In this respect, we have therefore discussed with the bank that the basis for applying the described assumption in the model should be examined in more detail. Since debt collection agencies may levy execution or enter into agreements with debtors on assignment of public benefits etc., we do not believe that it could be ruled out that a transferred amount may be something other than a voluntary payment/ payment

that suspends the limitation period, see section 15 of the Danish Limitation Act by implication. In this connection, the bank has confirmed that there may be a potential source of error and that this is expected to be handled as part of the additional issue concerning debt collection agencies (see section 9.4.13). Against this background, a potential source of error is associated with this assumption in the model, which may have led to incorrect calculation of compensation to the customer. However, the bank has accepted to investigate the issue further to determine whether there is a basis for paying additional compensation.

### *Processing step 3 – Interest on time-barred debt and time compensation*

The bank has stated that the actual recalculation in the DCS model does not take into account the interest accrued on the debt which, according to the order in which debt has been covered in the DCS system, will be covered before the principal and interest from the banking systems. If, in case of recalculation of the case history in processing step 2 above, it is identified that repayment has taken place after the time-barring of all or part of the debt, the interest added to the time-barred amount in the DCS must therefore be taken into account in a separate step. A time-barred debt will thus have adversely affected the interest-accruing balance in the DCS, and the amount of interest accrued will therefore be too high, which may have led to additional overcollection to cover accruing interest. According to the bank, this is handled by adding a so-called 'interest package' to the time-barred debt.

According to the model description, the interest package is calculated on the basis of an amount corresponding to the repaid time-barred debt and at the interest rate registered for the account. On the other hand, the interest period is not clear from the model description, and we have not received a written explanation in this respect. However, the bank has explained it at meetings, and we understand that an interest package is calculated for a period of three years prior to the first payment after the time-barring of the debt and until the last payment of the time-barred debt. According to the bank, the customer is thus compensated for the payments that may have been used to cover accruing interest. According to the information provided, the period delimitation is due to the fact that the DCS has been set up in a way that accruing interest is automatically written off after three years if it is not covered or acknowledged as owed before then. Just as the amount of the repaid time-barred debt described above, the interest package will also be allocated to other outstanding debt on the account before the model assesses whether an amount should be repaid to the customer.

Based on the bank's explanation, it seems likely that the described "interest package" will lead to customers being compensated for payments that may have been used to cover accruing interest charged on time-barred debt. However, the limited documentation means that this conclusion is subject to some uncertainty.

### 7.3.2 *The statistical model*

The DCS model described above is based on a recalculation of the case history in the DCS and is based on the initial balances (interest, fees and principal) that the customer owed to the bank at the time of transfer of the account from the banking systems to the DCS. However, for a number of the cases in the DCS, it has not been possible for the bank to identify the necessary information about the initial balance at the time of the creation of the case in the DCS. This challenge relates in particular to the accounts transferred to the DCS from previous debt collection systems in 2004 and where the full history and distribution of interest and principal are not available in the individual case. In addition, in a number of other cases (especially cases created before 2010), there are also challenges with the data basis, including transaction data.

However, for the purposes of recalculation and calculation of any repayment amount in cases where the data basis is incomplete, the bank has therefore, according to the information provided, used a so-called statistical model for approximately 30,200 customers<sup>11</sup>. Of the approximately 30,200 customers, approximately 18,900 customers were transferred to the DCS in 2004 according to the model documentation. According to the model description, the model relies on statistical calculations used to estimate 1) initial balances (distribution of interest/fees and principal on transfer to the DCS) and 2) limitation dates for each initial balance. This information is then used as input to the DCS model described in section 7.3.1.

1. Initial balances: The statistical model is used for the first time to identify the initial balances used in the DCS model for recalculation. The initial balances are the amounts considered as interest/fees and principal, respectively, and the distribution thereof affects the DCS model's calculation of when the various parts of the debt may become time-barred in the DCS, as the limitation period differs for interest/fees and principal. The distribution of interest/fees and principal at the time of the creation of the case in the DCS is estimated according to the model description for the statistical model on the basis of a distribution key based on analyses of approximately 36,000 cases processed and assessed using the DCS model. In this connection, the bank has sought a conservative estimate, the distribution key being dependent on the total debt, and debt items below DKK 5,000 are generally considered to consist of interest and fees.
2. Limitation dates: The limitation date at the time of creation in the DCS is also estimated for the individual initial balances (interest/fees and principal, respectively) on the basis of analyses of the above-mentioned approximately 36,000 cases. For the approximately 36,000 cases, the bank has analysed the interval between the debt origination date in the bank's previous debt collection systems and compared this date with the date of creation

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<sup>11</sup> It should be noted that the approximately 30,200 customers includes the total number of customers for whom calculations are made in the statistical model, and the number thus exceeds 28,138, as about 2,000 customers have been transferred for manual review because no conclusion could be reached for these approximately 2,000 cases on the basis of the statistical model.

in the DCS. In this connection, the bank has determined that the account in 95% of the cases will be transferred to the DCS within one year after the debt origination date. The DCS model will therefore, on the basis of the conservatively estimated initial balances, be based on a start date for the limitation calculation, which is one year before the account is created in the DCS.

As described above, the model is based on the results of the recalculation of approximately 36,000 cases in the DCS model. According to the model description, the model is based on the material assumption that the cases in question are in fact representative of the cases for which the model is used. In this connection, we know that all 36,000 cases in the analysis were created in the DCS in or after 2010 and have thus been transferred directly from the bank's current banking systems. According to the model description, however, most of the customers for which the statistical model is used are characterised by the fact that the cases were converted into the DCS from previous debt collection systems in September 2004, and there may thus be a potentially longer process of debt collection and interest accrual before the transfer to the DCS. This fact has not been written in the bank's model documentation, and we cannot see that this has been considered in the development of the new model.

On request, the bank explained that customers in connection with the transfer to the DCS in 2004 have been registered with a "creation date" up to five years earlier than the date on which the debt was transferred to the DCS and that added interest for the past five years was recalculated in the DCS at the time of creation. It is therefore the bank's opinion that the percentage of interest in the principal should not be higher in these cases. Furthermore, the bank has stated that the limitation calculation in these cases takes place at the above-mentioned "creation date" and not at the date when the claim was transferred to the DCS, as the "creation date" may be earlier than 2004.

Based on the information provided by the bank, we cannot dismiss the notion that the use of the statistical model in the converted cases will lead to a result that in any case reflects a correct or conservative estimate. However, as mentioned above, we cannot see from the model documentation that this matter has been subject to separate analyses or considerations in connection with the development of the model. According to the model description, approximately 10,600 of the above-mentioned customers remain active in the system, while 8,300 customers have been closed.

Subject to the above reservations in respect of the converted cases, we believe that the model will most likely in the vast majority of the calculated cases involve a conservative calculation which, as stated by the bank, will be to the advantage of the customer. It should be noted, however, that the bank's analyses show that there are a small number of customers for which the collection process prior to the DCS may have exceeded one year. The model may thus, for individual customers, lead to a late limitation date being used in the DCS model when calculating and assessing the customer's claims for repayment.

As described above, we have not reviewed specific cases and are therefore not aware of whether the above matters have actually affected the calculations. We also understand, however, that a more conservative estimate would probably lead to significant overcompensation of a significantly larger number of customers.

We also note that the use of the statistical model instead appears to involve a need for proper guidance of the customers for whom the model was used. In this connection, it should be noted that the bank *has* informed the customers in the letters if the compensation assessment is based on a mathematical calculation and that the letters provide guidance on the possibility of claiming a further loss (see section 8.2). However, we also note that it may be difficult for each customer to assess whether such additional losses have been incurred, among other things because, the assumption of a maximum maturity period of one year prior to the transfer from the banking systems to the DCS is not specifically communicated to the customers.

### **7.3.3      *Root causes 3 and 4 (DCS)***

As described in section 5.1, the bank has stated that a number of its customers may have been registered incorrectly as co-debtors instead of as guarantors (root cause 3). In addition, in some cases, a link may be missing between co-debtors who are each registered individually for the full debt (root cause 4). According to the information provided, both factors are attributable to the error in implementing the DCS system in 2004 and the transfer of accounts from the bank's previous collection systems.

Root cause 3: According to the bank, root cause 3 is limited to approximately 7,600 customers whose cases were transferred from the previous BG Bank system in 2004. According to the bank, these customers are flagged in the DCS system, and the bank has reportedly reviewed the original documents in all cases to determine whether the individual customer is a guarantor, whether the customer is registered incorrectly in the DCS system and whether the customer made payments to the bank that could involve a risk of overcollection. In this connection, the bank has stated that the risk of overcollection as a result of root cause 3 in respect of the majority of customers has been ruled out by means of this screening (for example, because the customer is not a guarantor, because the customer is registered correctly or because the customer has not repaid any debt). We have asked for any manuals that may have been used for the collection of data but have not yet received such manuals from the bank. However, the model documentation for root cause 3 allows us to determine the information that the bank has collected and the reasons for which the bank has ruled out overcollection. This does not give rise to any comments on our part.

However, for 1,186 customers, the bank has not been able to conclude on the first investigation whether the customers are affected by errors. Therefore, at the end of June 2021, these cases were transferred to the bank's QA team for further analysis. In this connection, see section 7.5 on manual approaches and business decisions.

Root cause 4: According to the bank, root cause 4 is limited to approximately 3,670 customers in the DCS system who were transferred from the bank's previous collection system in 2004. According to the information provided, these customers have been identified by means of physical files from the transfer in 2004 since the bank states that they cannot be identified by means of registered data in the DCS. According to the information provided, the bank has reviewed the previous documents to determine whether the customer is a co-debtor, whether the customer is registered as a co-debtor, whether the customer has paid the amount and whether the debtors' aggregate payments constitute a risk of overcollection. For example, such a risk may exist if one of two debtors has paid more than half of the debt. As with root cause 3, we have not received any documentation for the manuals that have been followed in connection with data collection, but the model documentation allows us to determine the information that has been collected.

Where overcollection as a result of root cause 4 could not be immediately ruled out, the bank's model description shows that a calculation model has been used to take account of the total payments made by the co-debtors. It appears that the bank has examined whether the customers have paid more than the total debt transferred to DCS. If so, the bank has calculated the amount of overcollection and added an amount equal to interest accrued on the "duplicate" debt since incorrect registration has caused interest to be added to the debt several times. In this context, the calculation model appears to allow for the fact that customers may have agreed to different interest rates. Finally, the total amount of overcollection is also added a time compensation calculated according to the model description from the date on which a payment is first made in several of the co-debtors' accounts in the DCS (see section 7.8 on time compensation).

When compensation is made to customers, the amount of compensation is distributed on the basis of the customer's share of the total amount paid. For example, if the customer has paid 25% of the total payments, the customer receives 25% of the compensation. The approach described does not give any rise to comments on our part.

However, we note that the bank's own model descriptions for both root causes indicate a risk that affected customers may be overlooked because the bank's selection and assessments are largely based on physical documents that are rather old. The bank has informed us that the risk is primarily related to root cause 4 (customers are identifiable only by means of physical documents). However, according to the information provided, the bank has set some selection criteria which are more likely to include too many customers rather than too few according to the bank. In addition, the bank has pointed out in the model descriptions that the risk is mitigated by the possibility for customers to report additional losses on the bank's website (see section 7.9 on this process). It is not possible for us to assess whether the risk described has resulted in errors and, if so, how many customers may be affected. On request, the bank has informed us that it has not found any occasion to inform the customers in question separately about the fact that they may have been registered incorrectly as co-debtors. However, the bank has stated that it will consider this in order to ensure the necessary communication.



It should also be noted that the bank's model description regarding root cause 3 states that the bank has ruled out the risk of overcollection as a result of this root cause for a number of customers by referring to the fact that the individual customer is registered correctly as a guarantor. We have asked the bank about this matter because, according to the information provided, the root cause for the transfer of guarantors from the previous BG Bank system should be a general error, and the bank has stated that the guarantors in question may subsequently have been identified and registered correctly. In this connection, we have not reviewed specific cases and have not verified the quality of the records in question.

In relation to root cause 4 and the bank's assessment of these cases, it is noted that the model logic, according to the information provided, is based on the assumption that all co-debtors in a given case are fully and equally liable for the debt (joint and several liability). In this connection, the bank has stated that, in the cases reviewed by the model, it has observed joint and several liability only where the full debt has been registered for both co-debtors. According to the information provided, other types of liability have not been observed. If the information about the debt does not match when the link between the co-debtors is created in the model, the model will not, according to the information provided, process the case and the case will be transferred to the bank's QA team for assessment. See section 7.5 for more information. In this connection, it should be noted that the bank states that there may also be guarantors among the customers who may be affected by root cause 4. Because further analyses are made in respect of this type of liability in other contexts, including root cause 3, we have asked the bank to provide further details, but the bank has presently stated that these customers are assessed in respect of root cause 4 in the same way as other customers. On the basis of the information provided, the bank has not taken into account the special circumstances that may apply to guarantors, including, for example, the type of guarantee, whether the guarantor is liable for the full amount of debt and what has been communicated to the guarantor in annual updates etc.

The bank's analyses of customers who may be affected by root cause 4 also depend on a number of criteria and assumptions. The model documentation shows, for example, that the customer's individual loans and joint loans may be combined, and the bank then takes the view that the customer's payments were used to cover the individual loan first.

On request, the bank has informed us that this procedure is not the result of a merger of accounts in connection with the transfer to DCS, but rather expresses an ordinary practice for managing accounts at the bank that may also be found for several individual accounts. According to the bank, the rule of coverage used by the recalculation model reflects the usual business logic approved by the bank's specialists. Since the customer is liable only for the individual loan, the bank also believes that payment of the individual loan prior to the joint loan will be in the customer's interests. In this connection, we do not have sufficient insight into the bank's case handling to determine whether this will be the case in all instances, for example when differences in interest rates etc. are taken into account. It should also be noted that in connection with the repayment of debt, any decision as to which debt the payment should cover generally lies with the payer (the

debtor) according to general legal principles. However, if the debtor has not made a request, the creditor must decide with due respect for the debtor's more or less obvious and known or discoverable interests. Since the bank, according to the information provided, has assessed this situation, the solution chosen does not give rise to any comments on our part.

#### **7.4 Model for cases in the PF**

For the bank's assessment of cases in the PF system that may be affected by root cause 1 (interest and fees added to the principal), a special data model has been developed as for DCS.

As at 18 October 2021, 69,468 customers have been assessed by means of this model according to the information provided, and 57 have been found to be entitled to compensation.

The bank's PF model generally consists of the following process steps, which, combined, result in an assessment of whether the customer should receive compensation.

1. The correction amount: The model first identifies a so-called "correction amount" consisting of the maximum amount of interest, fees and arrears that may have been transferred to PF as part of the principal. According to the information provided, the calculation is based on available data or on estimates that appear to be based on information provided by the bank's credit officers in respect of previously observed case histories.
2. Recalculation: Having calculated the correction amount, the PF model recalculates the case to determine whether the customer has made payments after debt has become time-barred. In relation to the calculation of the limitation period, the calculation is based on the dates that are also used as the start date for the calculation of the limitation period when new cases are created in the PF (business logic) since root cause 2 (errors in limitation dates) is only found in the DCS system according to the bank.
3. Calculation and time compensation: If the model under item 2 concludes that the debt has been repaid after the limitation date for the correction amount, this may constitute a case of potential overcollection. This is determined according to the model documentation by adding interest to the correction amount and deducting the amount of current outstanding debt. If the compensation cannot be set off by the current amount of outstanding debt, the balance will be paid with the addition of time compensation (see section 7.8).

The three process steps and our comments are discussed below. The descriptions are based on the information provided by the bank and the model description received by the bank.

By way of introduction, we note that the model documentation submitted by the bank for the PF model is still a draft version and therefore also highly provisional in several respects. In the model documentation, the bank describes several types of cases that the model could not process at the

time of the description (for example, cases where the Realkredit Danmark's mortgage was not a first-priority mortgage), but for which solutions, according to the information provided, have later been found to enable them to be processed by the model. The bank has informed us that several of the previously exempted case types have nevertheless been processed by the model, but some case types, as described above, have been complex and have required more extensive processing of data. Thus, we cannot rule out the possibility that certain types of cases in the PF model may have been processed in a way other than described in the following sections so we cannot assess the bank's approach in this connection.

In respect of the described PF model, it should be noted that the model's conclusions appear to be based on a number of estimates and estimated values. It must therefore be assumed that the model's result in many cases will not reflect actual overcollection in respect of loans. However, since the estimates, according to the information provided, rely on the bank's most conservative and customer-friendly estimates based on the bank's business experience, we find it very likely that the model, as a clear starting point, will result in a calculation to the customer's advantage. However, the assessment is subject to uncertainty in respect of a number of cases as a result of the very preliminary documentation (see the comments above). Thus, it is not yet possible to generally make conclusions about the PF model with certainty, and we are awaiting clarification regarding the determination of limitation dates in respect of property sales in which a loss is accepted (see process step 2 below).

In particular, for the so-called 20% cases, it should be noted that these cases have given rise to both uncertainty and errors in relation to manual adjustments (see section 9.4.3). According to the bank, these cases are therefore not recalculated in the PF model, and where the risk of overcollection could not be ruled out immediately, these cases have been transferred to the bank's QA team for manual assessment.

#### *Process step 1: The correction amount*

In order to determine the amounts that were transferred to PF as part of the principal, it is necessary to determine the respective amounts (interest, fees, arrears, etc.) that were unpaid when the case was opened. According to the bank's model description, the correction amount is identified on the basis of the order in which debt was covered prior to the transfer to PF since the order of coverage determines the parts of the debt that were covered by the proceeds.

The correction amount is determined on the basis of a number of details, including the proceeds from the sale of the property, the outstanding debt on the loan, and the amount of fees, arrears and interest on the latter, respectively. While the proceeds and outstanding debt on the loan can be derived from data, the estimated values etc. are used for determining the total of fees, arrears and interest payments ("correction amount") in cases where these amounts cannot be safely derived from the source data.

The model documentation shows that the total of fees cannot be determined with certainty in all cases. If this is this case, the PF model uses an estimate that determines the total of fees at DKK 2,000. The bank has informed us that this is based on a dialogue with the bank's most experienced case officers, and they have not observed fees exceeding DKK 1,700 in any cases and have usually observed fees of about DKK 500 only. The bank has further stated that this assumption has been checked in connection with the ongoing tests and validations of the model in which no examples of undercompensation have been found as a result of the assumption. We have no basis for assessing this information, but note that the estimate is based on the bank's own business insight and that the bank appears to have made considerable efforts to verify its estimate.

According to the model documentation, arrears on some loans are registered in terms of data. Since the bank's analysis found that there were shortcomings in the information registered in this respect, the bank has decided to set the arrears at 1.5 (years) times the annual loan payment. The model thus assumes that the customer will have defaulted on the loan obligations 1.5 years before Realkredit Danmark's acceptance of the mortgage and that the customer has not made any repayments/paid any arrears for 1.5 years. Interest on arrears is calculated on the basis of the highest interest rate for the same period. According to the information provided by the bank, this approach is considered to express a conservative estimate in the customer's favour. We do not have a basis for assessing this information, but note that the estimate is based on the bank's own business insight.

#### *Process step 2: Recalculation of the case history*

On identification of the correction amount consisting of fees, arrears and interest transferred to PF (see above), the case is recalculated in the PF model. According to the bank's model description, this is performed using the information about the case history registered in the PF, including payments, corrections, interest rate changes and registered suspension of limitation periods (recognition or acknowledgement of debt).

It should be noted that the model's calculation of limitation periods is based on the date information that the bank also uses in its normal operations as a basis for calculating limitation periods when new cases are created in the PF system. We have asked the bank about this basis and have received details on the dates used as the basis for calculating the limitation periods for the various types of cases (forced sales, non-forced sales and converted loans). The bank has stated that these dates have been checked with the bank's legal department and that root cause 2 (errors in limitation dates) in this connection has been found only in the DCS system. However, we have found some inconsistency in respect of the information provided by the bank about the dates used for calculating limitation periods in cases involving non-forced sales of property in which a loss is accepted. In this connection, the bank has explained in more detail that it generally uses the date of the signed declaration of debt if such declaration exists or is registered. In other cases, the bank generally uses the "date of possession" or (in case of bankruptcy) the bankruptcy order as a basis. In this respect, it is not clear to us what this "date of possession" means and whether a suspension

of the limitation period is actually applicable to the full amount of outstanding debt, including any arrears, interest and fees. In September 2021, the bank informed us that it would provide a detailed description of this situation, but it was not available at the preparation of this report. In this report, it is therefore not possible to arrive at a reliable conclusion in this respect, and we will therefore follow up on the matter in our further work.

### *Process step 3: Calculation and time compensation*

If the model under item 2 concludes that debt repayments have been made after the limitation date for the correction amount, a case of potential overcollection exists. According to the model documentation, however, this is not finally determined until interest is added to the correction amount corresponding to interest accrued in the PF and deducting any remaining, non-time-barred outstanding debt.

It should be noted that, after existing debt in the individual accounts has been set off, a number of accounts – with and without customer compensation – must be assumed to have a remaining debt balance in the system that is too high, which means that information about the correct amount of outstanding debt cannot be provided to the customer until after data is re-entered later or the debt is written off. Please refer to section 7.7.

## **7.5 Manual approaches and business decisions (residual)**

In connection with its analysis and recalculation of cases in the two debt collection systems, DCS and PF, the bank has identified a number of cases that cannot be assessed immediately using the models described above etc. The bank has also decided that manual validation must be carried out for estimated amounts of compensation of more than DKK 10,000. These cases have been submitted to the bank's Quality Assurance (QA) team for a manual review and assessment of the case. According to the information provided, a number of cases have been or will be reviewed and calculated manually:

Transferred from model	Number
DCS model	555
Statistical model	2,098
Root cause 3	1,215
Root cause 4	234
PF model	1,040
Business decisions	138
<b>Total</b>	<b>5,280</b>

In relation to the handling of the above "Business decisions" cases, in summer 2021, the bank made a business decision regarding the approach to customers in the DCS who, according to the bank, are only affected by root causes 1 and 2. Refer to section 7.5.1 for a description of this approach and the bank's measures for these customers.

In the summer of 2021, the bank made a business decision in relation to the addition of customers in the DCS that are affected only by root causes 1 and 2 according to the bank. This approach and the bank's initiatives for these customers are described in more detail in section 7.5.1.

For other customer groups that are or will be subject to a manual review, we have very limited insight into the bank's approach. Thus, we have received only preliminary drafts of process descriptions concerning certain types of cases in the PF system and regarding root cause 3. According to the material submitted to us, the bank has, by means of a manual review, either identified recognition of the debt that was not registered in terms of data or has collected additional and more precise information about the "correction amount" for the PF model (see section 7.4). For example, the PF model is based on estimates in connection with the determination of arrears and interest, and fees are estimated at a conservative amount assessed by the bank in some cases. There are no details of how cases have been reviewed for root cause 1 in the PF and for root causes 3 and 4 in the DCS. Therefore, we are not able to comment on the bank's approach in this report, and we will follow up on this in the further analyses.

#### ***7.5.1 Assessment of root causes 1 and 2 in the DCS***

According to the information provided, the bank has identified 10,200 customers for whom the bank has been unable to reach a conclusion with certainty in respect of root causes 1 and 2 via the DCS model and the statistical model. According to the information provided, these are cases where the sequence of events (the transaction track) in the DCS is particularly complex and where the model has either not been able to assess the outcome or where the model has calculated an illogical or unusually high compensation amount.

In this connection, the bank stated that a business decision was made in June 2021 to the effect that the bank will, in these cases, compensate customers for any amount that they have paid to cover the part of the debt that exceeds 60% of the initial balance in the DCS. The amount threshold corresponds to the threshold set in the Pause logic used by the bank to identify customers where the risk of overcollection is not insignificant (see section 6.4). The purpose of this approach has been to compensate customers in cases where the bank has been unable to rule out the possibility that customers have been charged an excessive amount as a result of root causes 1 and 2, but where this cannot be determined with certainty. However, if this approach leads to the compensation of an amount determined by the bank, the case is reviewed manually (see below). In total, 4,919 customers are assessed using this model, and approximately 394 of them have been found entitled to compensation.

It should be noted that the bank's own documentation states that the business decision in a majority of the cases is expected to lead to customer overcompensation. It also appears, however, that, on the basis of the results from the DCS model, there may be customers who will be undercompensated for the chosen model (in particular, customers with a reduced total debt). Thus,

in the DCS model, there are examples of debt collection claims exceeding 40% of the originally transferred debt. We note that in its communications on compensation to customers, the bank has chosen to describe the model and the 60% threshold used. However, the risk that compensation may be too low is not stated directly. See section 8.2 for more information about the bank's communications.

For the remaining part of the cases from DCS that could not be reviewed for root causes 1 and 2 by means of the DCS model and which, because of the size of the payments made, were also not processed in line with the above business decision, the bank has reviewed the cases manually. In a number of these cases, the bank's credit officers have identified annual debt updates that were sent to the customers before 2007 and which, according to the legislative rules on limitations applicable at the time, would have suspended the limitation period for all or part of the debt. Following a reassessment of the matter based on this information, the bank has found in a number of these cases that the debt was not time-barred at the time of payment. On request, the bank has informed us that the annual update in the DCS model is considered to cause a suspension of the limitation period only in respect of the principal, and we do not subsequently have any further comments in this respect. Before 2008, it was possible to suspend the limitation period for the principal, fees and recognised interest by notifying the debtor, see Danske Lov 5-14-4 (Danish legislation).

For cases where such steps to suspend the limitation period have not been found or have not been sufficient, the bank's case officers have reviewed and assessed the individual cases manually.

We have received the guidelines prepared for the above manual review. It should be noted that the guidelines are described in a very general manner and require prior knowledge of the process of assessing the limitation periods of cases in the DCS. However, the process in this context is to refer to and rely on the process guidelines used by the correction team for the alignment of cases (see section 6.3). We have not reviewed specific cases, but we note that the bank's description of the approach states that the bank carries out spot checks of 10% of the manually reviewed cases. The spot check involves a review by another experienced specialist of the calculation performed. After this review, 896 customers have been found entitled to compensation, while for 4,384 customers it has been assessed that root causes 1 and 2 have not led to overcollection. Since we understand that the recalculation and assessment of these cases are generally carried out by experienced specialists at the bank and that the review is based on manuals, checklists, etc., we do not have any comments on this approach.

## **7.6 Tests and validation**

The bank has explained that in connection with the development of the data models for recalculation and calculation of the customers' claims for repayment the bank has ensured ongoing testing and validation of the models' results. The results of the models have thus been tested and verified both in connection with the development and actual use of the data models.

According to the bank, the data models have been developed in such a way that they must initially be able to assess the least complex cases. Subsequently, the individual model has been adjusted on an ongoing basis so that more complex cases (e.g. cases with atypical transactions or several debtors, etc.) have also been assessed. In this connection, the bank has continuously compared the results of the models with the results of a manual review to ensure that the models are always to the customer's advantage. As stated in section 7.2, the bank has thus followed the principle that overcollection estimated by the model must always overrule manual recalculation.

According to the bank, during the development phase, checks have been carried out on an ongoing basis to ensure the validity of the model's recalculation. According to the information provided, these checks have been carried out as spot checks where the bank's case officers have reviewed and assessed a number of cases that have also been tested in the model. The individual case officer does not know the result of the model's recalculation. Subsequently, the results of the manual review have been discussed with a view to clarifying the reasons for this.

If the models in some scenarios are based on estimates and rely on registered data, the case officer may also access physical files and information contained therein. Where the model's results have not been to the customer's advantage, the model has been adjusted to compensate for this.

When a data model is considered ready for final recalculation of cases, a sample population of 10-30 cases is selected according to the information provided, depending on the complexity and number of previous test rounds. In this connection, the bank has informed us that a number of cases relevant to the specific batch runs are selected for validation. Both cases where overcollection has been identified by the model and cases where this is not the case (e.g. 10 cases with and 10 cases without overcollection) are selected. In addition, for cases with overcollection, the bank has, according to the information provided, identified cases with different characteristics, such as overcollection below and above DKK 10,000. According to the bank, no cases have been found in any of these validation rounds where the results of the models have led to undercompensation of customers.

The bank has informed us that the results of the ongoing tests and validations (so-called gap analyses) have been documented and approved by sending e-mails to relevant parties at the bank. We have therefore requested documentation of the results and have initially received a few selected examples. In relation to these payment rounds, these examples confirm the bank's information to the effect that the tests carried out are considered satisfactory and do not reveal any examples of undercompensation.

However, since the total material was not made available to us until October, we have not had the opportunity to review and assess this for the purposes of this report. We will return to this if the results in other rounds may give rise to follow-up on the models or questions to the bank's conclusions.



## 7.7 Offsetting/reallocating amounts and calculating outstanding debt

As described in sections 7.3.1 and 7.4, the bank's data models for root causes 1 and 2, both in the DCS and the PF, contain mechanisms that take into account whether the repayments that have covered time-barred debt could instead have been used to cover other legally enforceable debt in the account. Only then will the models assess whether the customer is entitled to repayment of an amount because of overcollection.

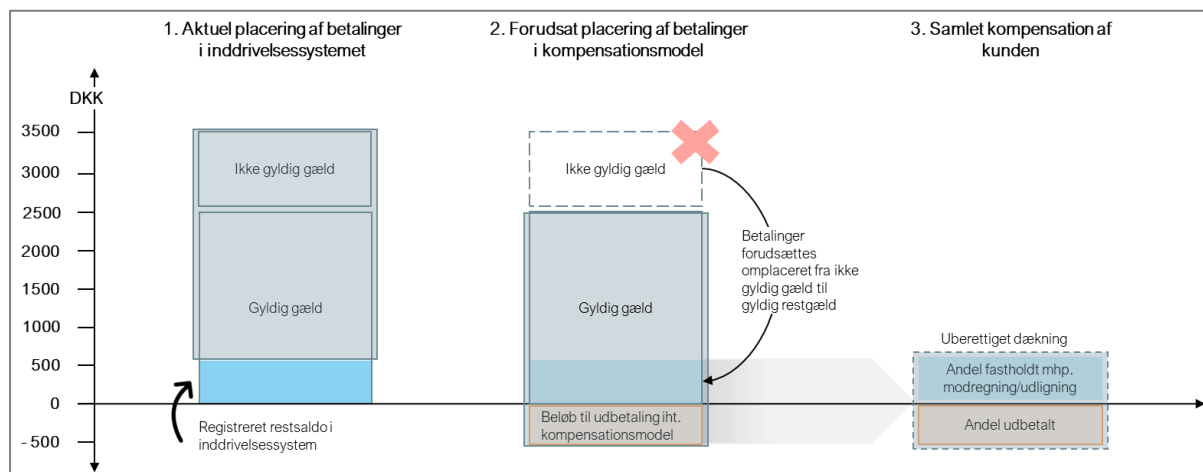
In the DCS, this reallocation of payments is made as part of the recalculation of the case history, while the model description for the PF model describes this as a final set-off against currently outstanding debt. Thus, different methods are used in the DCS model and the PF model, but the result, in both models, is that an amount is paid to the customer only if there is no legally enforceable outstanding debt registered on the account that the amount could cover instead.

In relation to the above, we note that the bank's compensation calculation is carried out using data models or via manual processes alongside the bank's debt collection systems. Thus, when the bank recalculates cases and assesses a customer's claim for repayment and compensation, no actual correction of data is made in the systems, and any outstanding debt will remain unchanged in the debt collection systems. Accordingly, there will be open accounts in the debt collection systems that still show too high an outstanding balance until the time when the account is either written down to zero ('closed') or corrected to the correct amount. According to the information provided, such correction of data (the so-called "write-back") is not expected to be completed by the bank until 2022.

The set-off or reallocation of amounts assumed in the bank's data models for compensation to customers that have been subject to overcollection thus is not shown in the debt collection systems and will not be visible until after the data has been corrected. This means that all or part of a payment that today is allocated to non-enforceable debt in the bank's debt collection system may be reserved to cover other legally enforceable outstanding debt in the account that has not, however, as yet been offset. The customer does not appear to have been informed of this assumption (see section 8.2).

In the figure below, we have tried to illustrate how a payment may currently be allocated to non-enforceable debt in the debt collection systems (item 1) and how the bank's compensation models assume part of the payment to be reallocated (item 2). This means that the total compensation for a customer consists partly of a set-off/settlement of outstanding debt in the account and partly of a payment to the customer to the extent that wrongfully collected amounts exceed the outstanding debt, to the effect that the customer has been subject to overcollection (item 3).

Figure 8 – Illustration of payment allocation in debt collection system and data model, respectively.



We note that the bank has obtained external legal advice regarding the possibilities of related offsetting of other outstanding debt in the same account. In this connection, we do not disagree that such offsetting or reallocation of payments may generally be made within the account and that, in such case, the bank will be entitled to withhold all or part of a repayment for the purpose of offsetting of enforceable outstanding debt in the account.

In this connection, however, it should be noted that full compensation of a customer due to root causes 1 and 2 will not be completed until offsetting of the outstanding debt in the account has been made and the relevant amounts have been paid to the customer. Full compensation thus assumes later offsetting against the registered outstanding debt of the customer in the account that has been used as the basis for the calculation of compensation. In our opinion, such offsetting will generally require the bank to issue a statement to the customer regarding offsetting, i.e. explicitly informing the customer that the enforceable part of the outstanding balance is covered by reallocation of previously made repayments or has lapsed in connection with disbursement of compensation.

As described below in section 8.1, the bank has now, according to the information provided, paid compensation to customers affected by root causes 1-4 provided that the cases are not awaiting clarification regarding the issue involving bankruptcy/probate cases (see section 9.4.1) or receipt of the required payment information from the customer. The offsetting of outstanding debt in customers' accounts described above is, however, expected to be carried out only in connection with a later correction of data ("write-back"), which, according to the bank, is expected to take place in 2022.

For customers who have received a payment and compensation from the bank due to the four root causes and who are currently still registered with an outstanding debt in the account to which compensation relates, it is our understanding that the debt in the account in question is expected to be offset at a later date by the bank's offsetting or reallocation of repayments to cover the

outstanding debt in the account. As mentioned above, this is not currently reflected in the debt collection systems, and a clear description of this was not included in the letters sent to customers in connection with the repayments, see section 8.2 below. Thus, the bank has not in fact issued any statements regarding offsetting to affected customers, and they continue to be registered in the bank's systems as being subject to debt collection.

As described, the correction of data is not expected to be completed until 2022. This also applies to cases that are still open and in which the customer has received compensation due to overcollection. The bank does not expect this issue to have been resolved until the turn of the year 2021/2022, and a number of the customers who have received compensation will therefore still be registered in the bank's systems with an outstanding debt at year-end, which, according to the bank, will be reported to the tax authorities. In our opinion, the bank should seek to remedy this situation as soon as possible in cases in which the compensation models have shown that the customers in question do not have further debt to the bank in the cases in question.

## **7.8 Time compensation**

The bank has informed us that customers who have paid too much will receive a refund of the excess amount paid plus compensation for the period during which the money should have been available to the customer – a so-called “time compensation”. The customer is thus paid two elements in the form of the calculated excess payment and a time compensation.

The bank has stated that the compensation has been calculated in accordance with section 5 of the Danish Interest Rate Act since interest is calculated at the official debit interest rate determined by Danmarks Nationalbank plus a statutory margin, which in the period from 2002 onwards has been between 7 and 8%. This information is also provided to customers in the letters that we have received from the bank as examples and which, according to the information provided, have been sent to customers in connection with the payment of compensation. This shows that the bank has added compensation calculated in accordance with section 5 of the Danish Interest Rate Act and calculated for the time when customers should have had the money at their disposal.

In cases where the time compensation is granted for periods prior to 2002, the bank has stated that the time compensation is calculated at the same interest rate as for the period from 2002 until March 2013 (7% margin). This is a higher rate than the statutory interest rate applicable for the period before 2002.

In this connection, the bank has informed us that the time compensation for the entire compensation amount is calculated from the date of the customer's *first* “overcollection” in the account (see immediately below) until the date of the bank's payment of compensation to the customer. The time compensation is thus calculated on the total excess amount paid by the customer, regardless of whether overcollection has taken place over time and in the form of several regular payments.

We also understand that, in relation to time compensation, the “first time the customer is overcollected” is considered to be the date of the first payment after the date on which part of the registered debt on the account became time-barred. However, the bank is currently considering the option of granting time compensation from the first payment after the date on which the balance of the account was no longer legally enforceable to cover the payment. We are not aware of whether the bank has made a decision in this context and have thus not taken a position on this matter.

In cases where overcollection is determined on the basis of the bank’s business decision (section 7.5.1), the time compensation is calculated from the date on which the debt could be time-barred at the earliest in the DCS, while the time compensation in relation to the assessment of cases affected by root cause 4 is calculated from the date on which excess payments have been made by two or more debtors for the first time.

In our opinion, the chosen method means that in most cases the bank is likely to pay compensation to customers for a longer period than the period specified in the Danish Interest Rate Act since a proportion of the amount may carry interest from an earlier date than the actual payment. According to the bank, this action is performed in particular to ensure the easiest possible communication to the customer (one interest period), and the approach is also seen to be an advantage to the customer. In our opinion, the bank has sought a solution that will, to a large extent, be better for the bank’s customers than what follows from the provisions of the Danish Interest Rate Act.

However, we note that, while taking as a starting point the earliest possible date for the calculation of interest on the total amount of payment to the customer, the bank has also stated that it uses the interest rate applicable on the date of the first overcollection for the entire period. While the interest rate after section 5 of the Danish Interest Rate Act is 8% p.a. for claims falling due for payment on 1 March 2013 and later, the interest margin on claims falling due for payment before that date is only 7%. If the customer has paid part of the time-barred debt before 1 March 2013 and another part after that date, the bank’s approach will thus imply that a portion of the remaining balance will carry interest at a lower interest rate than that provided for in section 5 of the Danish Interest Rate Act.

On request, the bank has informed us that this difference in interest rates before and after March 2013 is likely to be significant in a few cases since the bank calculates interest from the earliest possible date and because erroneous calculation of interest assumes that the customer has paid too much both before and after March 2013. However, the bank acknowledges that, in special situations, interest may not be calculated at the rate corresponding to the interest rate calculated in accordance with section 5 of the Danish Interest Rate Act despite the early start of interest accrual. On 15 October 2021, the bank informed us that it is working to select only customers who may be affected by this problem and that, in the cases in question, it will ensure that the customer

receives interest at a rate corresponding to the interest rate specified in the section 5 of the Danish Interest Rate Act.

In relation to the bank's obligation to pay interest, we note that, if no due date has been determined in advance, section 3(2) of the Danish Interest Rate Act stipulates that interest is not payable until 30 days have elapsed after the date on which the claimant (the customer) has submitted or made a claim for payment. However, where special circumstances warrant, the court may, in the course of court proceedings, decide that interest is to be paid from an earlier date (see section 3(5)). In this connection, we note that, in the present cases with systematic errors in the bank's debt collection systems, the bank is not unlikely to be obliged to pay interest in accordance with section 5 of the Danish Interest Rate Act and that interest in this connection may be calculated from an earlier date than 30 days from the customer's claim. It is also noted that in its customer letters, the bank has stated that the time compensation has been calculated in accordance with section 5 of the Danish Interest Rate Act and calculated for the time when customers should have had the money at their disposal.

## **7.9 Indirect and additional losses**

As part of the bank's efforts to compensate customers affected by the errors in the bank's collection systems, the bank has decided to "*establish a procedure for processing claims for compensation based on indirect losses*" (see section 7.3 above). In 2020, the bank set up a process to handle claims for both indirect losses and additional losses. The process and other processes were scheduled for the summer of 2020, when the first claims for compensation for indirect losses were filed according to the bank's statements.

In this connection, the bank has set up a website that allows customers to file claims for compensation for additional losses if they believe that they have suffered indirect losses or losses in excess of the amount that they are supposed to have suffered according to the bank. In addition, the bank has established a process for case handling and ongoing procedures to assess the claims filed. According to the information provided, all claims filed will be reviewed and settled on an individual basis.

In this connection, the bank has set up a panel to ensure that all claims for compensation for indirect losses related to errors in the debt collection systems are processed in the same way. The panel consists of members from the bank's legal department, the bank's debt collection department and external lawyers and is responsible for assessing and reviewing the claims filed. According to the principles for the work of the panel, compensation is for example based on the assumption that the customer has been affected by the problems related to debt collection. The bank has informed us that it has sought external legal assistance to prepare the principles and guidelines implemented in the work of the panel and the process for handling the claims submitted.

We have reviewed a number of letter templates from the bank. It appears that, in its letters, the bank has generally referred customers to the bank's website for more detailed information about the errors found. In connection with informing the individual customer about the outcome of his or her case after recalculation, the bank has also directly informed the customer of the possibility to file claims for compensation for additional losses as a result of the customer's debt relief case on the bank's website. This procedure also appears to apply regardless of the outcome of the recalculation. The specific reference is also included in the bank's most recent letters concerning other issues. As customers are also able to file claims directly to the bank, we believe that all customers have been offered this option in an easy and accessible way.

According to internal documents from the bank, at the beginning of September 2021, the bank had received some 43 claims filed through the process described above. A number of the claims are requests rather than actual claims. According to the information provided, processing the claims filed has not yet caused the bank to pay additional compensation as a result. However, for some of the claims, the bank awaits further information from the customer.

The bank has informed us that letters will be sent to customers whose claims are dismissed and to customers if the bank needs documentation to assess the claims filed. According to the information provided, the bank has not yet sent any letters to customers since the letters are awaiting final approval.

We note that the bank has established a process for handling indirect and additional losses, but, for the sake of good order, we have asked the bank about the definition of "indirect losses" in this connection. The bank has informed us that the process and the panel have been set up to compensate customers in cases where the bank cannot identify a loss itself without further information from the customer. In addition, the bank has stated that direct losses are handled as part of the bank's review of the cases, including for the purpose of ensuring that they are not affected by any of the additional issues.

## 8. PAYMENT OF COMPENSATION

### 8.1 Payment

As described in section 7, the bank has recalculated and assessed the cases in the bank's debt collection systems that have been identified by the bank as potentially affected by the four root causes (for details of limitation, see section 5.2). In this connection, the bank has assessed, either by means of data models or manual recalculation, whether the customer could be entitled to a payment as a result of the four root causes of errors. As of 10 October 2021, a total of 7,508<sup>12</sup> customers had been identified as having been subject to overcollection as a result of the root causes of errors.

According to the information provided, the bank has paid compensation to 5,437 customers. Payment has yet to be made in 2,071 cases; this is due to the following two issues:

- Probate/bankruptcy court cases: In cases in which the customer has been in the process of probate/bankruptcy proceedings, it is the bank's view that the payment rests on the final solution to the additional issue relating to the cases. The bank is in dialogue with the Danish Court Administration in this regard (see section 9.4.1).
- Missing information: The bank does not have information about the customer's current bank account and NemKonto account in all cases, and it is not possible to make a direct payment. In relation to this issue, we have received examples of letter types in which the bank requests customers to contact the bank with a view to the bank paying the customer the amount due.
- Manual Review (QA): The manual review was completed only on 29 October, when it was concluded that approximately 900 customers are entitled to compensation. Payment to these customers has been initiated, but since most customers do not bank with Danske Bank, it may, according to the bank, take up to 14 days for these customers to receive their compensation.

We are not aware of the distribution of customers between the first two issues stated above, in which customer compensation is pending, whereas the third issue concerns about 900 customers who have been found entitled to compensation by the bank's Q&A team.

The bank's model descriptions show that the bank does not offset the payment amounts to the customer against accounts. When asked to provide information, the bank confirmed that there have been no requests for payment amounts calculated as part of the compensation process to be

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<sup>12</sup> It should be noted that the 7,508 customers represent the number of customers calculated in the models and by the manual review, which means that some customers count more than once.

offset against outstanding debt on other accounts of the customer in cases where the customer has more than one case. According to the bank, the full repayment and compensation amount has therefore been paid directly to the customer, irrespective of whether the customer has other debt registered with the bank. According to the bank, this is because it is not possible to determine with certainty that the account against which the amount could be offset is not affected by errors.

However, on review of documents received, we have found that in November 2020, at least in one specific case, the customer's payment claim has been offset against the customer's case as we have received an example of a letter containing an offsetting statement from the bank relating to offsetting of debt against an account other than that to which the repayment relates. We have asked about this and about the bank's offsetting practice across accounts. The bank has stated that it does not offset across multiple accounts in connection with the compensation process and that the specific offset in question was made in connection with manual correction of the customer's accounts.

It is therefore our understanding that the bank may have offset against the customer's payment claim in cases that have been handled manually. Because additional issues have been identified on an ongoing basis, there is a risk with such a business procedure that payment amounts may have been used to cover another, potentially incorrectly calculated debt, which means that the customer will have to be compensated again at a later date. It is also noted that errors have been detected since 2019 in manually corrected cases, which may also require reviewing and reassessing the covering that was made by offsetting across the customer's accounts. We have not received any information about the number of cases in which offsetting was made. However, in October 2021, the bank informed us that it is investigating the specific case in which offsetting was carried out across accounts, and it will report its findings to us when these are available.

As mentioned above, it should also be noted that the individual customer may still be registered with an incorrect balance in the bank's debt collection systems as a consequence of the four root causes and one or more of the additional issues identified. The recalculation and payment of compensation to customers will therefore not result in changes to or correction of data in the debt collection systems, and the bank will not with certainty be able to inform the customer about the customer's outstanding debt unless the account is closed. For a number of customers, recommencement of debt collection requires the correction of data, which according to the bank is not expected to be completed until 2022.

## **8.2 Communication to customers about compensation**

As described in section 8.1 above, the bank has paid compensation to 5,437 of customers who the bank considers to have been subject to overcollection due to the four root causes. In connection with this, we have received a copy of the letters sent to customers in connection with the payment of amounts.



The letters inform customers that they are entitled to receive money and detail how the amount will be paid within 14 days. The bank's letters also state that the customer is informed of this if the assessment of the claim for repayment is based on either the statistical model (section 7.3.2) or the bank's business decision (section 7.5.1).

In cases where the statistical model has been used, the customer is informed by the bank that, since *“it has not been possible for [the bank] to access in digital form all of the information related to [the customer's] debt collection case, [the bank] has used a mathematical calculation model to determine whether [the customer] has paid too much debt. The model is based on a precautionary principle, which means that [the bank] generally calculates to the advantage of the customer in cases where there may be some uncertainty.”* Accordingly, the bank makes a certain reservation here: the model “generally” calculates to the advantage of the customer. It also informs the customer about the option of reporting any additional financial loss, and provides the customer with details about contacting the bank for further information about the calculation.

In cases where the bank has made a business decision, the bank informs the customer that *“it has not been possible for [the bank] to access in digital form all of the information related to [the customer's] debt collection case, the amount that [the customer] will receive covers all payment made on the debt above 60% of the registered outstanding debt – as calculated at the time the debt was handed over for collection. If at a later date it is found that the amount we paid to you was too high, we will not ask for the excess amount to be repaid to us.”* In these letters, the bank does not state that the compensation in individual cases may be too low. However, in these letters, the bank also advises the customer about the possibility of reporting a claim for any additional financial losses.

We have noted that in the most recent letters about compensation to customers who have an active account (still registered outstanding debt), the bank informs that the amount is paid to the customer *“instead of offsetting the amount against [the customer's] current debt”*, and that the bank will subsequently send the customer a statement of how the bank has calculated the repayment amount and the time compensation. It should be noted that the customer thus has at this time not yet received a summary of how the bank has calculated the repayment amount and the time compensation. Consequently, the customer has no insight into the amount withheld by the bank with a view to later being able to settle/offset the outstanding debt on the account that forms the basis of the compensation calculation. On the contrary, the most natural understanding of the bank's comment in the letter that payments are made *“instead than offsetting”* is that the bank has refunded the full amount that was overcollected together with a time compensation and that the bank has therefore not withheld an amount with a view to settling the customer's outstanding debt with the bank in the account on which the compensation calculation was based.

We do not believe that the above description is accurate because the calculations of the compensation models, as described in section 7.7, assume that any outstanding debt on the account will be settled/offset later, even if it will not appear in the debt collection systems until in

connection with the subsequent correction of data (“write-back”). The customer’s actual payment of time-barred debt may thus exceed the amount repaid to the customer because a proportion of this may be set aside for settling or offsetting outstanding debt on the account, which will not be visible to the individual customer. We consider it essential that the bank ensures accurate communication with customers about this, including documentation showing how the compensation amount has been calculated and that the customer’s account in the case in question is closed.

### **8.3 Tax issues related to compensation**

In connection with the work on remediating customer cases and compensating customers, the bank has had a dialogue with the Danish Tax Agency about whether and how customers may be taxed on the amounts paid out as a result of identified or estimated overcollection or in connection with the business decision, see section 7 above.

According to the information provided, the bank has introduced a principle to compensate customers for any tax claims that the customers may be met with as a result of repayment and compensation from the bank. Since May 2021, the bank has also informed customers of this in the letters sent to them in connection with payment of compensation. The bank has informed us that they have been in dialogue with the Danish Tax Agency to provide guidance to customers.

In letters sent to customers, the bank has specifically informed customers that the bank has a dialogue with the Danish Tax Agency to determine whether the customer must pay tax on the repayment amount and on the compensation amount. From July, the bank has also informed customers that if tax is to be paid, the bank will cover this. The bank has also informed customers that they will be informed by the bank as soon as there is clarification on this matter. The bank has informed customers that it still has a dialogue with the Danish Tax Agency and that it expects that guidance to customers on correction of tax assessment notices will be sent in connection with the upcoming correction of data (“write-back”), as the customer’s total tax liability is expected to be based on this. Furthermore, the bank has informed customers that as a result of the current suspension of interest accrual in debt collection cases (see section 6.4 on the Pause logic), it may be necessary to adjust preliminary tax assessment information because the customer is not currently charged interest on the debt.

We note that the timetable for the bank’s correction of data (“write-back”) is currently 2022, so that the correction cannot be expected to be completed before the summer of 2022. Even though the bank is under no obligation to provide customers with advice, the current guidance section in the customer letters sent by the bank may indicate to the customer that there is doubt about the tax liability regarding the payments made by the bank, and the customer may therefore be under the impression that they can wait to hear further information from the bank about this matter.

However, as customers will generally have to report taxable income for the 2021 year before 1 May 2022, it should be expected that the bank will nevertheless provide guidance to customers again a reasonable time before this deadline. In this connection, we note that the bank continues to have a dialogue with the Danish Tax Agency in relation to the tax issues and is awaiting the guidance of the tax agency. Consequently, we have not carried out a detailed assessment of the tax issues or how the bank should advise customers on this matter.

Because the bank *has* to a certain degree in its customer letters undertaken to provide some guidance to customers on tax aspects, including indicating to the customer that the bank will cover any tax payments, we will follow up on this in connection with the analyses of the bank's approach to correction of data in the debt collection systems ("write-back). The matter is therefore not dealt with further in this report.

## **9. ADDITIONAL ISSUES**

### **9.1 General information about the additional issues**

In connection with the bank's work on debt collection and the root causes of errors identified (see sections 5 to 8), the bank has identified a number of additional issues that have or may have led to errors in the bank's debt collection, including overcollection of its customers. Internally, the bank refers to these issues as additional issues.

The bank has established a process through which observations regarding possible errors are registered and processed, including so that a number of specialist functions at the bank are consulted and heard. This process results in a recommendation to the Athens Council (see section 4.1.1), which makes the final decision about whether to create a separate track for the issue in question.

At the time of the bank's response of 10 September 2020 to the Danish FSA, the bank had created separate tracks for 14 additional issues, which were described by the bank in an enclosed appendix 2.5. Since then, the bank has found several factors that have given rise to analyses of potential errors. According to information at hand, a total of 28 additional issues had been identified at 1 October 2021.

The identification of a number of these additional issues was made as part of the bank's work on the four root causes. In this connection, it should be emphasised that the bank has continuously become aware of more and more errors in the bank's systems and/or business procedures, and the bank's ongoing remediation of its debt collection as a whole must be seen in this light. The existence of a number of the additional issues has, for instance, meant that the bank's original plans for correction of the balance in cases that have been affected by the four root causes (section 5 above) have had to be revised, since a calculation of the final correct balance in the individual case obviously requires that all errors affecting the balance have been analysed and can be corrected together.

The additional issues are broad in range and for some reflect the derived consequences that have arisen as a result of miscalculated debt items, among other things because of the four root causes of errors in the debt collection systems described above. These additional issues include, for example, errors in information about the debt that has been reported to the Danish tax authorities (described under additional issue no. 11 below), errors in information provided to the RKI credit reference register (additional issue no. 4) and errors in reporting claims in bankruptcy/probate court cases (additional issue no. 1). Similarly, the incorrectly calculated debt items cause errors in the information exchanged with debt collection agencies (additional issue no. 13), and the errors have also given rise to data protection considerations (additional issue no. 12).

Other issues concern separate errors of importance to the size of debt, including errors in the bank's calculation of interest (additional issue no. 17), errors due to interest on reminder fees (additional issues nos. 2 and 14), errors due to insufficient business procedures for exchanging information with debt collection agencies (additional issue no. 13) and errors resulting from the lack of time-barring in the bank's mortgage system (additional issue no. 16).

Finally, errors have been detected in the bank's case handling, which may have affected customers financially or otherwise, including the lack of negotiation of estate agent fees for the *home* real-estate agency chain (additional issue no. 10) or revenue recognition of amounts in favour of the customer of up to DKK 50 in connection with the bank's closing of cases (additional issue no 19).

It is important to emphasise that the identified additional issues vary in nature and complexity, but that a number of the additional issues are similar to the original four root causes, including in regard to both nature and scope and to the fact that the issue may have a direct impact on the debtor relationship of the individual customer. In our opinion, the designation of an issue as being either a root cause or an additional issue is mostly a result of the bank's internal acknowledgement process and of the organisation with which the bank has chosen to deal with the errors.

The bank has informed us that analyses had been carried out of 19 of the identified additional issues by 1 September 2021, and therefore this report, as described in section 1.2, has been scoped accordingly. The bank's analyses of the additional issues have ended with a report (a Fact Pack), which has been made available to us and discussed with the bank at the regular follow-up meetings.

Below follows first a description of the bank's approach to and method for handling the additional issues as described and partly documented to us. Next, the overall status of the bank's work on the additional issues and our observations and comments in that respect are described below. Finally, a brief introduction is given to the 19 additional issues covered by this report and observations regarding the bank's work on these since we, for purposes of this report, have made a preliminary investigation of the bank's work on defining issues and affected customers, the bank's preliminary analyses of compensation and the bank's work on stopping the issue and informing its customers.

Reference is made to section 9.3 below, which provides an overview of the additional issues currently identified by the bank for separate tracks.

It should be emphasised that, as part of its efforts to remediate the debt collection, the bank identifies, on an ongoing basis, circumstances that may give rise to the creation of one or more new tracks for an additional issue. In a number of places in this report, we have made a separate comment on this, including, for example, in relation to the calculation of debt collection costs and court fees (section 9.4.1 below) or in relation to the bank's calculation of interest in the DCS (section 9.4.17 below).

## 9.2 The bank's method for handling additional issues

The Danish FSA, referring to the additional issues identified, issued an order on 21 September 2020 to the bank to take measures to ensure that the risk of incorrect debt collection was eliminated or limited to an acceptable level as soon as the error had been established and to inform affected customers by way of individual communication as soon as the bank had established with reasonable certainty that the customer belongs to a group that may be affected by the errors detected.

The Danish FSA has therefore ordered the bank both to counter the risk of wrongful debt collection and to notify customers who may be affected by the error.

Since the spring of 2021, we have been following the bank's work on analysing the additional issues. In this connection, the bank has described and documented the procedures for the analyses in such a way that a model is used in which the issues raised are initially analysed in more detail by an analysis team at the bank. During this phase, the bank determines whether is a real error or a source of error exists, whether the error(s) may have affected customers financially or otherwise, whether (additional) preventive measures should be implemented, whether there may be a need for compensation of customers and/or for sending information letters and whether the issue gives rise to system changes, workflow updates or other.

In addition to the points mentioned above, the analysis results in a preliminary definition of affected customers, and the analysis ends with a report (a Fact Pack), which, after approval by the bank, is passed on to the teams that are to continue working on the matters highlighted by the analysis (for example, preparation of models for compensation, sending of letters, implementation of system corrections, etc.).

In September 2021, we received a copy of the bank's Fact Packs concerning 19 of the additional issues for which the analysis phase has been completed. In this respect, it should be noted that the analyses seem to be only preliminary analyses to a large extent that describe the potential consequences of the issues and the ensuing need for action. However, the specific needs and options of action remain to be analysed in more detail by the bank and implemented by means of specific measures. Furthermore, a number of the bank's analyses state that the overall extent of the issue cannot be recognised until further and more in-depth analyses have been carried out, see, for example, section 9.4.17 below on additional issue no. 17 concerning the calculation of interest in the DCS.

In the bank's further work on the individual issues, further analyses are often needed, including for the purpose of identifying affected customers and making decisions about compensation models, etc. In addition, it has been established in several cases that the bank has chosen to revisit topics and draw new conclusions as a result of later findings without this resulting in a revised Fact Pack.

As the bank is still working on several of the additional issues, new knowledge may arise on an ongoing basis that will have a direct impact on the conclusion previously stated by the bank in a Fact Pack. In this respect, reference is made to a separate observation immediately below about the bank's working method for sequential handling of the additional issues.

In this report, our descriptions and comments on the issues are based mainly on the analyses presented by the bank (Fact Packs) and discussions with the bank.

In relation to the bank's method and approach, it is noted that the issues are analysed individually and on an ongoing basis. In this connection, the bank has not, as part of the method, described a systematic and predetermined investigation to determine whether subsequently analysed issues give rise to revisit previous analysis reports and to reconsider the conclusions in such reports. In our opinion, the failure to describe such a standard operating procedure may result in the risk of issues being overlooked as a result of the sequential approach to analysis. Several issues are of such a nature that later analyses may affect the conclusions already reached by the bank in previously completed analyses. This applies, for example, to the errors in reporting claims to the bankruptcy/probate court (additional issue no. 1), the creation of customers in the RKI credit reference register on the basis of an incorrectly calculated debt (additional issue no. 4) and questions about GDPR compliance (additional issue no. 12). The bank therefore states that the bank will regularly assess whether a previously completed analysis is to be revisited. The lack of a written standard operating procedure in this area increases the risk that the bank will not revisit previous analysis results to a sufficient degree before a new analysis is (preliminarily) completed.

However, we are aware that in some cases the bank has revisited some of the additional issues for further analysis as a result of new knowledge having been obtained in another context, but that this appears to be based on concrete and specific decisions made by relevant persons and not on general practice.

Several of the additional issues may entail a need for payment of compensation to the bank's customers or for a reduction in customers' debt to the bank. In this context, a question arises about the taxation of the compensation paid and about interest and time compensation, if applicable. A separate issue concerns taxation in cases where a customer's claim for compensation is time-barred under the law of property.

It should be noted that, as part of the established method for analysing the additional issues, the bank is, according to information at hand, engaged in an ongoing dialogue with the Danish Tax Agency regarding the tax implications that the payment of compensation will have for the bank's customers. The bank has informed us that the bank is still engaged in a dialogue with the Danish tax authorities and that final conclusions have yet to be reached on this matter. This question in relation to the individual additional issues is not further dealt with in this report. Reference is made to section 8.3 for a general description of the bank's approach to tax issues related to the

payment of compensation and, in this connection, for the bank's communications on tax-related issues to its customers.

It should be noted that the bank has not described a separate process for considering and implementing measures in its documented business processes for the additional issues that protect the affected customers against future overcollection. The documented business process of the bank thus describes that the analysis team must identify measures that are suitable for preventing the issue from occurring again/the issue from increasing, for example in the form of a more or less permanent system correction, adjustment of a business process or the like. One example of such a measure is that the bank has implemented a new case handling guide ensuring that issue no. 10 regarding fees to the *home* real-estate agency chain does not again lead to preferential treatment of *home* estate agents in the cases in question.

On the other hand, the bank has not satisfactorily documented that it has considered in relation to all of the identified additional issues whether the bank should take separate measures to ensure that the affected or potentially affected customers are protected against overcollection. However, for some of the additional issues, the bank has explained that it has established and maintains separate measures against future overcollection. This applies, for example, to additional issue no. 13 regarding the bank's use of debt collection agencies and additional issue no. 16 regarding the lack of time-barring in the bank's mortgage system.

The bank has stated that it has also considered the generally implemented suspension logic to be sufficient in relation to eliminating the risk of future overcollection of individual customers. In this connection, we refer to our comments on this in section 6 above, including comments on the relationship between the Pause logic and the so-called red/green checks, and comments on the overall adequacy of the 60% threshold in relation to customers who are or may be affected by one or more of the additional issues.

As described here, we are unable to establish that the bank has carried out investigations to determine whether the overall extent of the additional issues identified should have led to an adjustment of the Pause logic, including a change in the 60% threshold, which is calculated on the basis of a number of cases in the DCS that were or could be affected by root causes 1 and 2. At least a number of the additional issues identified may result in a significant amount of compensation and interest being paid to each customer. In this connection, we refer to sections 3.3.1 and 6 regarding the measures that the bank decided to take in October 2021 to address the risk of overcollection going forward, including the automatic suspension of payment agreements as of 1 December 2021 regardless of the amount of payments already made by the individual customer.



## 9.3 Overall status of the additional issues

### 9.3.1 Additional issues that as of 1 October 2021 are dealt with by the bank individually

At 1 October 2021, the bank had conducted analyses of 20 of the identified additional issues, while eight additional issues are still being analysed (see the information above about the bank's Fact Packs and the contents thereof). Due to the timing of the completion of one of these analyses, we have not been able to cover the analysed issue in this report.

The table below gives an overview of the 19 additional issues for which the bank had carried out preliminary analyses at 1 September 2021 and which are thus described in this report. The individual additional issues are also described in more detail in section 9.4 below.

Figure 9 – Overview of the 19 additional issues discussed in this report:

Number	Name	Initial analysis completed	Date of the bank's Fact Pack	Confirmed issue	Suspension measures	Communications to customers, etc.	Potentially affected customers	Compensation or correction of debt balance required	No. of customers expected to be entitled to compensation*	Concerns third parties	System modification
1	Incorrect submission of claims in bankruptcy/probate cases	✓	March 2021	✓	✓	N/A	Unknown no. of creditors	Yes to creditors and in rare cases to debtor	N/A	Bankruptcy/probate courts and tax authorities	x
2	Interest on reminder fees (DK)	✓	No FP	✓	✓*	Partially	>346,600*	✓	296,000*	Tax authorities and debt collection agencies	✓
2	Interest on reminder fees (NO)	✓	No FP	✓	✓	Partially	191,000	✓	Pending clarification	Tax authorities and debt collection agencies	✓
3	Errors in relation to the correction of cases in the PF system	✓	February 2021	✓	✓	Ongoing	4,500	✓	Pending clarification	Tax authorities	x
4	Reporting to RKI, etc.	✓	2021 April	✓	✓	Ongoing	x	N/A	RKI	✓	
5	Vulnerable customers	✓	No FP	x	N/A	N/A	N/A	x	N/A	x	x
6	Interest rates in the DCS and PF	✓	March 2021	✓	✓	Ongoing	53,000	✓	Pending clarification	Tax authorities	✓
7	Application of data in Tableau	✓	No FP	x	N/A	N/A	N/A	x	N/A	x	x
8	Collection of actual legal costs	✓	April 2021	✓	✓	Ongoing	25,000	✓	4,000	Tax authorities	x
9	Legal costs potentially aggregated with the principal	✓	April 2021	x	N/A	N/A	N/A	x	N/A	x	x
10	Fees to the Home real-estate agency chain	✓	No FP	✓	✓	✓	2,152	✓	1,231	Bankruptcy/probate courts and tax authorities	x
11	Tax reporting	✓	March 2021	✓	N/A	✓	Pending clarification	No	Pending clarification	Tax authorities	✓
12	GDPR	✓	No FP	✓	✓	Ongoing	All customers affected by flawed data	No	N/A	x	✓ (indirectly)
13	Cases outsourced to debt collection agencies	✓	June 2021	✓	✓	Ongoing	69,000	✓	Pending clarification	Tax authorities and debt collection agencies	✓
14	Nordania (DK)	✓	No FP	✓	✓	✓	11,300	✓	11,300	Debt collection agencies	✓
14	Asset Finance (NO)	✓	No FP	✓	✓	✓	705	✓	705	Debt collection agencies	✓
15	Incorrect bookkeeping	✓	No FP	x	N/A	N/A	N/A	x	N/A	x	x
16	Handling of time-barred debts in mortgage system	✓	February 2021	✓	✓*****	Ongoing	120	✓	Pending clarification	Tax authorities	✓
17	Errors in interest in agreements	✓	May 2021	✓	✓	Ongoing	1,100	✓	Pending clarification	Not specified	✓
18	No follow-up on payment agreements	✓	June 2021	✓	✓	Ongoing	48,000	✓	Pending clarification	Not specified	✓

19	Triviality limit for repayment of overcollection	√	June 2021	√	√	Ongoing	11,706	√	11,706	Not specified	√
*) Sub-issue 2c is pending analysis.											
**) Sub-issue 16b is pending analysis.											

According to the information provided, the bank does not expect to have completed the analyses of all 28 issues until the first quarter of 2022. In this connection, reference is made to section 4.2 above, which describes the expected timetable for the bank's further work on analysing the identified additional issues as well as for the bank's execution of compensation, correction of the debt balances of the affected customers and implementation of corrections of IT systems and business processes. The table below gives an overview of the additional issues that the bank had established as separate tracks at 1 October 2021, but for which a preliminary analysis (Fact Pack) was not yet available at 1 September 2021.

Figure 10 – Overview of the additional issues of which the analysis was not completed at 1 October:

Number	Preliminary description of the issue	Analysis completed	Confirmed issue
20	<i>Discrepancy on agreement with the customer and the DCS:</i> Errors in the bank's calculations may have resulted in the bank collecting a larger amount than the amount stated in the agreement with the customer. The bank is investigating whether customers may have been subject to overcollection in this respect.	x	Pending clarification
21	<i>Additional customers in the DCS:</i> Up to 2016, 3,860 customers were deleted from the DCS when the cases had been processed. The customers have been analysed to determine the impact on the four root causes, and the customers have been compensated in those cases where the customers were entitled to compensation. However, the customers have not been analysed to determine the impact on the additional issues.	x	Pending clarification
22	<i>Discrepancy on main account and agreement account:</i> The bank has identified cases in which there were discrepancy on the balance in a customer's main account and the balance in the customer's agreement account. The bank is investigating whether this could have led to overcollection from affected customers.	x	Pending clarification
23*	<i>Incorrect tax code in connection with composition with creditors:</i> For a number of customers, the bank has used an incorrect tax code when reporting to the tax authorities in connection with composition with creditors. The bank is investigating whether its use of an incorrect tax code could have been detrimental to customers.	√	√
24	<i>Lack of transparency in consequences of interest type changes:</i> The bank may have advised customers to switch from simple interest with a statutory interest rate to compound interest with a lower interest rate. However, for some customers, this interest type change has meant that the debt has been repaid at higher interest expenses. The bank is investigating whether the advisory services provided in these cases violated of the rules on good business practice, including whether customers may be entitled to compensation.	x	Pending clarification
25	<i>Interest charging on other costs related to business cases:</i> The bank has identified cases in which costs related to cases involving insolvent businesses may have been aggregated with the principal. As a result, interest may have been charged on these costs. The bank is investigating whether this practice is unjustified, including whether customers may be entitled to compensation.	x	Pending clarification
26	<i>Errors when reestablishing guarantors:</i> In the event of a business' bankruptcy, the business' account with the bank is closed and reestablished against the guarantor. The DCS requires that at least one debtor is linked to a balance in the DCS. Consequently, the bank has created the guarantor as both debtor and guarantor. This means that a guarantor may have been treated as a debtor, and the bank is investigating whether this may have led to overcollection from the customer.	(√)	Pending confirmation
27	<i>Accrual of compound interest on statutory interest:</i> In the period before 1 January 2012, the bank has calculated compound interest on statutory interest in the DCS because there was no functionality for calculating simple interest. The bank is investigating whether the calculation of compound interest has been detrimental to customers.	x	Pending clarification
28	<i>Errors in interest on new cases in the DCS:</i> On transfer to the DCS, unpaid interest entries from the banking systems are aggregated in one data field in the DCS. In certain cases, there is a risk that a part of the interest entries may become time-barred with no impact on the calculation of interest in the DCS. The bank is investigating whether this matter could have led to overcollection from customers.	x	Pending clarification
	*) Addressed in subsequent report.		

As several of the additional issues involve a risk of errors in the debt registered in the bank's debt collection systems, and since it is not certain that all customers that have not been affected by additional errors will be identified, the bank, end-May 2021 in connection with the red/greed checks described in section 6, decided to again treat all cases in the debt collection systems as red as thus

incorrect, see section 6.4 above. The red flagging of previously green-flagged cases was communicated to the bank's employees at a meeting on 2 June 2021 and implemented in the systems on 5 July 2021 according to our information. This means that debt collection through the courts is undertaken against customers only in special cases and that all debt collection customers have been covered by the so-called Pause logic since summer 2021 (see section 6.4), which means that payment agreements are automatically suspended regardless of the amount of payments already made by the customer. Reference is made to section 9.2 above and to section 6.4, which contains our general comments on the impact of the additional issues on the effects and adequacy of the Pause logic.

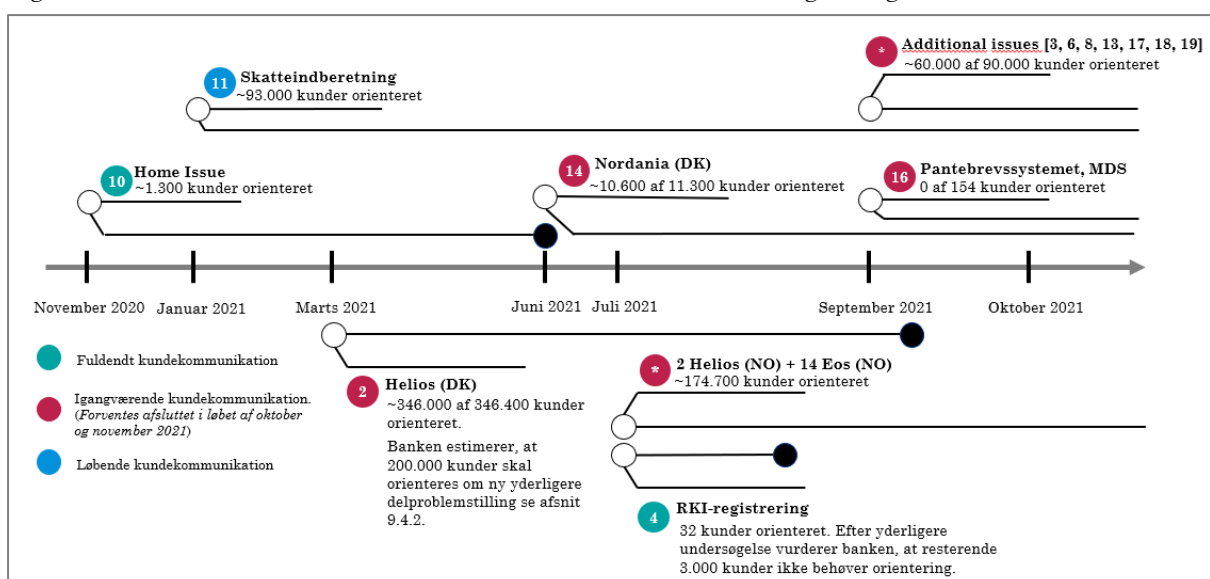
As can be seen from the table above, analyses of a number of the additional issues were completed in the spring of 2021, and, in regard to a number of the analyses listed, these are matters where it can be established that a basis may exist for adjusting customer balances or for payment of compensation for actual overcollection. See section 6 above about the general measures taken by the bank to ensure that the bank's customers are not subject to overcollection.

### 9.3.1.1 Communications to customers on additional issues

The Danish FSA, as described in section 1, issued an order on 21 September 2020 to the bank to inform the customers affected by the additional issues by way of individual communication as soon as the bank had established with reasonable certainty that the customer belongs to a group that may be affected by the errors detected.

At the beginning of October, the bank was still in the process of sending out more such letters. However, as shown in the figure below, letters have previously been sent to customers about the additional issues related to estate agent fees (*home*) and reminder fees (Helios DK). Reference is made to section 9.4 for other issues.

Figure 11 – Illustrative timeline for customer communications regarding additional issues



We note that the bank does not expect to have sent letters to the customers in question until during October and November 2021, informing them of a number of the issues in question. In this connection, the bank informed both us and the Danish FSA that, in relation to the order issued by the Danish FSA on 21 September 2020 on notification of customers about the identified additional issues, the bank gave priority to notifying customers, as far as possible, of several additional issues in the same letter, one reason being that, in relation to the individual customer, this should cause the least inconvenience when communicating with the bank. In this connection, we acknowledge the bank's considerations regarding the consideration of individual customers who do not have to receive unnecessary many letters from the bank this should cause the least inconvenience then communicating with the bank. However, in view of the fact that the analyses of the additional issues for a number of persons were completed at the beginning of 2021, the bank should probably have ensured faster communication.

Reference is also made to section 6.6.2 above on the status of the bank's communications to customers who may be affected by the additional issues. In addition, reference is made to the separate comments made in individual sections below on the respective additional issues, including section 9.4.1 on additional issue no. 1 regarding a number of cases submitted to the bankruptcy/probate court.

#### *9.3.1.2 Compensation as a result of additional issues*

As stated in the timetable described in section 4.2 above, the bank has not shown us a detailed timetable for the development of compensation models for the individual additional issues. It should be noted that a number of the issues identified are of such a complex nature that it is difficult to assess whether the bank will be able to adhere to the general timetable for completing this work.

In the table in section 9.3.1 above, figures are provided for the estimated number of affected customers in relation to the individual additional issues. The bank has pointed out to us that the figures stated are to a large extent provisional, and that the figures for the individual additional issues may therefore increase or decrease as the bank continues its work to develop specific models of compensation, including when the bank improves its models for identifying affected customers.

It should also be noted that in connection with the description of the individual additional issues, in section 9.4 below, some estimates from the bank's preliminary analyses regarding total estimated compensation amounts or average payment amounts for the expected affected customers are also provided. The bank has stated that these numbers are also estimates that are often based on small-scale spot checks or result from preliminary calculations that do not necessarily take all relevant factors into account.

In most cases, the figures stated relate to an estimate of the total effect on an account balance that an issue may have for the bank's customers. This does not necessarily mean that the amounts stated will have to be paid to the bank's customers as a result of actual overcollection; for a number of the customers, corrections will only be required to be made to the enforceable outstanding debt. The estimated figures provided do not necessarily take into account the effect of interest on the affected accounts, and the values generally do not include estimated time compensation (see section 7).

In general, the figures provided are largely based on the bank's preliminary analyses, which are reproduced in the Fact Packs (see section 9.2). The bank may have provided other figures in subsequent material, including in statements to the Danish FSA, but we do not have any insight into the underlying calculations. We have therefore not included these later estimates and provisional figures in this report.

Only when the bank has developed specific calculation models for compensation will it be possible to estimate more accurately the overall effect of the errors identified.

### ***9.3.2 Potential new additional issues***

It should be emphasised that the bank, as part of its efforts to restore debt collection, continuously identifies matters that may give rise to the creation of one or more new tracks for an additional issue. In a number of places in this report, we have made a separate comment on this, including, for example, in relation to the calculation of debt collection costs and court fees (see right below) or in relation to the bank's interest calculation in the DCS (section 9.4.17 below).

In our discussions with the bank, we have thus noted that there seems to be some uncertainty as to whether the bank, on its own initiative, takes into account court fees, legal costs and the like that may have been calculated on the basis of a too large principal. The bank has confirmed that this may constitute a potential source of error and that this has led to an ORIS report. This being the case, an additional issue or a sub-issue should be expected to be created.

In relation to the above, we note that it is predominantly likely that one or more of the matters that have currently been "discovered" by the bank but which are yet to be treated in a separate track will have to be subjected to an actual analysis as an additional issue.

The bank has stated that it considers its current timetable to be ambitious but realistic, but that it may lead to large or small shifts in the overall timetable if more errors in the bank's debt collection process are identified that may affect the debt collection from the customers, including the balance of each customer's debt and the need, if any, for compensation for overcollection.

## 9.4 Introduction of and observations regarding the additional issues

### 9.4.1 Issue no. 1 – Errors in submitting claims in bankruptcy/probate cases

#### Nature and scope of the issue:

Additional issue no. 1 concerns the bank's submission of potentially erroneous claims in bankruptcy and probate cases (bankruptcy estates, reconstruction cases, debt relief cases and estates of deceased persons) as a result of the four root causes and the additional issues affecting the customer's total balance. The bank has divided the additional issue no. 1 into three sub-issues, which are described below.

Sub-issue 1a concerns *closed bankruptcy/probate cases* and concerns the submission by the bank of a claim larger than the legally enforceable claim that the bank actually had against the customer (or the estate). This happened because of data errors in the bank's debt collection systems and may be due, for example, to parts of the claim submitted being time-barred at the time of submission as a result of root causes 1 or 2. If a dividend has been paid, the bank will thus have received a higher dividend amount than the one to which the bank was entitled, which may have led to losses for the other creditors in the bankruptcy case, and which – in the rare cases in which a physical person has become insolvent – may have led to the debtor having a larger interest-bearing debt after insolvency.

The bank estimates that there are currently 14,000 to 16,000 cases covered by this sub-issue, which is the vast majority of cases under additional issue no. 1. The bank's original estimate in an analysis from March 2021 was that 31,500 cases were affected by the issue. We understand that this was an indication of the total number of cases in which the bank had at that time submitted a claim with the bankruptcy/probate court or its assistant. It is our understanding that the bank's current estimate of 14,000-16,000 cases covers only cases in which a dividend *has actually been paid* to the bank.

In August 2021, the bank stated that the currently identified number of cases of up to 16,000 under which claims may have been submitted in bankruptcy/probate cases on a flawed data basis is provisional and that it cannot be ruled out that the bank will in future identify further affected cases. As an example of the reason for this, the bank states that the data basis may be insufficient because case officers have had varying practice for registering cases in which dividends have been paid out. In addition, case officers may have specified the case type in free text fields, which means that structured searches are not possible. According to the information provided, the bank has set up a working group to clarify whether more cases are affected by the issue. We do not have a timetable for the work in question, which shows when the bank expects to be able to provide an updated assessment of the number of cases affected.

In its preliminary analysis, the bank further states that it considers the issue to be limited to the period from 2004 to 2020.

We note that the material available does not seem to explain the period defined for sub-issue 1a. We agree with the bank that for at least a number of cases, the issue has arisen since 2004, the year in which the bank started using the DCS. However, a number of the additional issues identified may have affected the balance in cases in which a claim was submitted before 2004. We cannot see from the bank's analysis that the bank has considered this separately, but it is our understanding that the working group established by the bank will also assess whether the use of the period defined is still appropriate.

We note that, at present, it is only *bankruptcy/probate* cases that are dealt with in the bank's analyses under issue no. 1 and the related sub-issues. However, we have noted that the bank itself states in its analyses that it should be determined whether ordinary court cases should be included in issue no. 1. In this context, we understand "ordinary court cases" to be cases such as enforcement proceedings, levy of execution, claims for payment, etc. Even though the balance for customers in such cases is corrected and compensation is paid in connection with the remediation of root causes 1–4 and the individual additional issues, the submission of too large a claim in connection with "ordinary court cases" may have affected, among other things, the amount of court fees and legal costs, which the customer has had to pay after the court case. We understand that the bank is already aware of this issue and that the bank is currently investigating whether the issue should be analysed in an independent track. According to the information provided in September 2021, the bank filed an ORIS report on this.

Sub-issue 1b concerns the bank having *withdrawn* claims in 178 open cases because the bank was unable to recalculate and correct the claims before the expiry of the deadline for filing claims or the completion of the bankruptcy/probate proceedings. Withdrawal has thus led to the barring of the bank's claim against the customer. In this connection, it is the bank's assessment that, as a result of the barring of claims, the bank is likely not entitled to collect the full amount outstanding from any co-debtors or guarantors. The bank has informed us that the withdrawals were initially made in December 2019, when, according to the information provided, the bank was unable to make manual recalculation and re-submission of claims in 21 debt relief cases. Next, from October 2020, the bank withdrew 157 cases because the bank used an erroneous correction process. The *erroneous correction* process is dealt with under additional issue no. 3, see section 9.4.3 below.

Sub-issue 1c concerns the bank becoming aware that in connection with the recalculation and resubmission of claims in bankruptcy/probate cases, the bank had applied an erroneous correction process (see section 9.4.3 below). Sub-issue 1c is limited to 16 cases that were recalculated from January 2021 to March 2021 after renewed review and claims resubmitted. Thus, in the 16 cases, a corrected claim has been submitted which takes into account root causes 1-4 but not the additional issues identified by the bank. Furthermore, the bank has not made any reservations about any further errors when the claims were submitted.

Potential new sub-issue: The bank is currently considering whether the bank's incorrect submission of claims in 840 cases relating to the estates of deceased persons from the PF system should be dealt with under issue no. 1 or treated as a new, separate issue. The issue was communicated separately to the Danish FSA in the bank's letter of 20 September 2021. The issue is that in 840 cases relating to the estates of deceased persons, the bank has used a wrong letter template in connection with the submission of the claim.

We understand that the issue arose as a result of the bank using so-called pro forma statements in cases relating to the estates of deceased persons. This means that the bank submits the claim registered by the bank with the reservation that the bank's calculation of the claim has not been finally calculated. The purpose of this "pro forma" filing is to allow the bank to hold off adjusting the claim submitted until it has been determined whether the estate will pay dividends. Thus, the bank does not recalculate and correct the claims prior to submission of pro forma statements. However, in the 840 cases in question, the bank has used the wrong letter template, which does not state that the claim is a pro forma claim and not the final claim, and that the bank will make manual corrections before any dividend is distributed. This has led to the bank receiving too large dividends in a further 144 cases.

It is our understanding that this sub-issue is still being analysed by the bank.

We have not assessed whether the use of a "pro forma" or preliminary statement is standard practice in cases involving the estates of deceased persons, but note, however, that in certain circumstances, preliminary statements may be used pursuant to section 82(3) of the Danish act on the administration of the estates of deceased persons. We note, however, that, as a minimum, the procedure requires the bank expressly to state that pro forma claims submitted may be affected by one or more errors.

Only in connection with receipt of the bank's letter of 20 September 2021 to the Danish FSA were we informed that in some cases, the bank submits a claim in bankruptcy/probate cases without having first reviewed the case for all known errors, and the claim is thus considered and is stated to be preliminary. The bank has informed us that in the cases in question, the bank intends to perform manual recalculation if it is found that the estate can cover the claims submitted. Our investigations into this practice were not completed before the submission of this report. Therefore, the report does not express a final conclusion as to whether such a practice will always be justified, even if the claims contain an adequate reservation, including whether the submission of the claim may have unintended consequences for the way in which the bankruptcy/probate case is dealt with or the costs involved.

*The bank's preliminary analyses regarding compensation:*

For sub-issue 1a, which currently concerns 14,000-16,000 cases, other creditors in the bankruptcy/probate cases may have suffered a loss as a result of the bank's submission of an excess claim. In rare cases, this may also have affected a personal debtor whose outstanding debt after



insolvency proceedings will be higher if the bank received dividend on the basis of too large a claim. We cannot confirm or deny the existence of such cases.

The bank currently has a dialogue with the Danish Court Administration on how to handle the detailed clean-up and any compensation to be given. In the bank's opinion, any re-opening and subsequent dividend distribution in the cases must await the bank's obtaining an overview of all the additional issues, also in order not to reopen already closed cases more than once. It is, however, uncertain whether the cases listed can and should be reopened, including whether reopening should be limited to a given period of time.

The bank is still investigating the detailed handling, including compensation, of the 178 cases covered by sub-issue 1b.

For the 16 cases covered by sub-issue 1c, the bank has initially stated that no compensation should be paid, as the cases in question *have been* corrected in relation to root causes 1-4 before resubmission of the claim. However, the bank has stated that the correction of the 16 cases does not take into account whether the case may be affected by additional issues, and it thus cannot be ruled out that the bank has also submitted too large claims in these 16 cases. In this connection, we understand that cases were corrected and resubmitted in the period from January 2021 to March 2021 and that the bank has not made any reservations in relation to the additional issues in connection with resubmission of claims, as the bank did not communicate such a reservation until in connection with claims submitted after 23 July 2021, see details below.

In this connection, the bank has informed us that it has decided to correct errors in these cases later if some of the 16 cases prove to be affected by the additional issues.

In relation to the bank's calculation of the number of customer cases potentially affected by issue 1, we note that the bank has emphasised to us that the figures calculated generally to a large extent are provisional and that the figures may therefore either increase or decrease, see also section 9.3.1.2 above.

*The bank's measures to stop the issue and inform customers:*

In order to stop issue no. 1, according to the information provided, in the period from June 2019 to May 2020, the bank reviewed 1,951 pending bankruptcy and probate cases to ensure that the claims submitted by the bank in the cases were not affected by root causes 1-4. In this context, we understand that 508 cases were or could be affected by errors due to root causes 1-4. We do not currently have full insight into how the bank has determined that the other 1,443 cases were not affected by errors due to root causes 1-4, and we are therefore not in a position to assess the background for this assessment. We understand that the bank has made corrections and resubmission of claims in 200 cases that the bank has found to in fact be affected by errors as a result of root causes 1-4.

The bank thus states that all claims submitted in open bankruptcy/probate cases have been corrected for root causes 1-4. From July 2021, the bank did not report a claim in bankruptcy/probate cases unless this was required for special reasons, for example because the bank considered that failure to submit the bank's claim could be detrimental to the customer, for example in connection with a customer's application for debt relief. Since 23 July 2021, the bank has, according to the information provided, included a reservation in the claim stating that the claim, although it has been manually recalculated and adjusted for known errors, may be incorrectly calculated due to one or more of the additional issues. As a result of the potential impact of the additional issues, the bank decided on 23 September 2021 to withdraw all claims submitted in bankruptcy/probate cases. We understand that during the fourth quarter of 2021, the bank expects to have completed this withdrawal. In addition, we understand that on 23 September, the bank decided to stop submitting claims in bankruptcy/probate cases as a result of the potential impact of additional issues. Only in very special cases and subject to separate handling and approval procedures may customers' debt the bank's debt collection systems be submitted as claims in bankruptcy/probate cases. Reference is made to the bank's administration and measures in these bankruptcy/probate cases described under 6.5.1.

However, as we understand it, at 15 October 2021, the bank had not yet sent separate notifications in bankruptcy/probate cases still open in which the claim submitted may still be incorrectly calculated as a result of one or more of the additional issues. This entails a risk that the bank's claims in these cases are approved on the wrong basis and that too large dividends are paid to the bank. The bank has stated that it is aware of this issue and that it expects to have sent the necessary letters to the estates by the end of October 2021. Reference is made to section 6.6.2.

#### **9.4.2 Issue no. 2 – Interest on reminder fees**

##### *9.4.2.1 Denmark*

###### *Nature and scope of the issue:*

Additional issue no. 2 concerns the bank's charging of interest on reminder fees. In connection with the bank's work on this issue, the bank has concluded that issue no. 2 exists in Denmark and Norway. This section deals with issue no. 2 in Denmark. For the treatment of the issue in Norway, see section 9.4.2.2.

The issue relates to the bank's charging of interest on reminder fees charged pursuant to section 9b of the Danish Interest Rate Act. On the basis of external legal advice, the bank has assessed that it was not entitled to charge interest on a reminder fee charged pursuant to section 9b of the Danish Interest Rate Act, unless the reminder fee is part of a judgment amount, see section 8a of the Danish Interest Rate Act. Historically, however, due to errors in data in the bank's systems, the bank has charged interest on such reminder fees, even if such interest could not be charged pursuant to section 8a of the Danish Interest Rate Act.

The bank's clean-up work in relation to issue 2 concerns reminder fees that have been applied and charged in the period from 1 July 2005 to 3 September 2020 in the banking, Mortgage (MDS), DCS and PF systems. The reason for the period determination is that section 8a of the Danish Interest Rate Act was implemented by Act No. 554 of 24 June 2005, which entered into force on 1 July 2005, and that on 3 September 2020, the bank ceased to impose new reminder fees.

The bank expects to compensate all customers who have been affected by the issue, including also in closed cases, in which customers' claims for payment of compensation for overcollection may be time-barred. This is in line with the general compensation principles that the bank follows in the clean-up work related to root causes 1-4 (see section 7.2).

During its work on issue no. 2, the bank has identified a further sub-issue concerning the bank's charging of a new type of fees. The Danish FSA was informed of this issue for the first time by letter dated 30 September 2021 from the bank to the FSA. The bank estimates that up to 140,000 customers will be affected by the new sub-issue. We have not received any material that further describes the newly identified sub-issue, and the issue is therefore not dealt with in detail in this report.

*The bank's preliminary analyses regarding compensation:*

In its preliminary analyses, the bank estimates that a total of approximately 346,400 customers may be affected by issue no. 2 because the customers have been charged interest on a reminder fee pursuant to section 9a of the Danish Interest Rate Act after 1 July 2005. Of these customers, the bank *expects* 296,000 to be entitled to payment of cash compensation as the customer's claims for repayment are estimated to exceed any outstanding debt these customers have to the bank. According to the information provided by the bank, these are primarily closed cases in which the customers no longer owe any amounts to the bank.

The above figures do not include the additional 140,000 potentially affected customers described above who may also be affected by the issue regarding the charging of interest on reminder fees pursuant to section 9a of the Danish Interest Rate Act, as described above.

According to the information provided, the figures also do not include a number of customers whom the bank has decided to exclude in connection with the clean-up work. These customers have been excluded because the bank has faced challenges with the method used to identify fees charged during the period from 2005 to 2010 because the bank does not have actual transaction data for the individual customer in many of the cases. In this connection, the bank has tried to restore transaction data on the basis of account statements in the form of report extracts, which in some cases has not resulted in reliable results. We understand that approximately 6,750 customer cases cannot be assessed for compensation because the bank cannot recreate the data necessary to calculate a compensation amount.

In addition, the bank has decided that so-called “deleted customers” – i.e. customers whose data has been deleted completely from the bank’s IT systems – are processed only if the bank considers that the compensation amount is not time-barred due to the absolute limitation period. We are not aware of how specifically the bank is able to make this estimate given that these are customer cases that have been deleted completely from the bank’s systems. We have not received any information about how many customers have been excluded as a result of this decision.

As stated above, the bank provisionally expects approximately 296,000 customers to be entitled to compensation in cases in which the bank has the data required to make an assessment. At 17 June 2021, the bank had paid out roughly DKK 810,000 to approximately 200,000 customers.

We therefore conclude that a significant number of customers are expected to receive compensation as a result of this issue, but it must also be noted that the average compensation amount per customer so far is relatively limited. On the basis of the above, the average compensation amounts to less than DKK 5.

In relation to the bank’s calculation of the number of customers who may potentially be affected by issue no. 2 and the bank’s estimate of the total compensation amount to which these customers may be entitled, including the average compensation amount for the customers concerned, we note, as stated in section 9.3.1.2, that the figures calculated are currently subject to considerable uncertainty and may increase or decrease.

According to the information provided, the bank has decided not to take any further action regarding customers for whom it has not been able to establish an adequate data basis on which it is possible to calculate compensation. As described above, we understand that this applies to approximately 6,750 customers. We understand that the decision was made by weighing the potential compensation claims of each customer against the work that would be involved in manually reviewing several years’ account statements of 6,750 customers and calculating any compensation due. In addition, it is the bank’s own assessment that it is not under any legal obligation to pay out compensation in these cases since any compensation claims of the customers in question will today be time-barred. In this report, we do not make any final conclusions regarding the bank’s compensation to customers affected by this issue; we will do so only when the bank has completed the compensation process.

*The bank's measures to stop the issue and inform customers:*

The bank has taken two general steps to stop the issue of charging interest on fees charged pursuant to section 9a of the Danish Interest Rate Act. The *first* step, implemented on 3 September 2020, was to stop the charging of reminder fees until it is possible to ensure that the bank's systems do not charge interest on the fees.

For reminder fees charged before 3 September 2020, the bank has stated that, as the *second* step, the charging of interest on these reminder fees is covered by the suspension of interest accrual,

which was implemented with the Pause logic, according to which the interest rate was set at 0% for all of the bank's debt collection customers (see section 6.4). The bank has stated that at the time of the suspension of accrual of interest and fees, some 150 customers were registered in the banking systems with fees on which interest was still accruing. The bank has informed us that separate steps have been taken to counter the charging of interest on fees for these customers.

The bank has planned a number of corrections in its IT systems and data to ensure that the issue does not re-occur in the future. As stated in section 1.2.1, it falls outside the scope of this report to assess whether the bank has made the corrections necessary and sufficient to prevent the issue from arising again when the bank resumes its debt collection.

It is our understanding that at 15 October 2021, 346,000 customers had received an information letter about the issue. The information letter informs the customer that the bank is investigating whether the customer has paid interest on reminder fees. At the same meeting, the bank stated that it has sent separate notification to customers who receive compensation for the tax implications that the compensation may have for the customer. Information about this is available on the <https://danskebank.dk/renterpaarykkergebyrer> website, to which the bank also refers in the information letters.

We note that the bank's information letter to customers has provided information about how the customer should consider the issue identified, including what the issue is about. At the same time, we note that the website text at <https://danskebank.dk/renterpaarykkergebyrer> has been updated on an ongoing basis in step with the bank's remediation work, and customers have thus been able to find information about this on an ongoing basis.

On *payment of compensation*, the bank has adopted a communication threshold of DKK 10, to the effect that customers receive information only in the form of text on the customer's statement of account if the compensation does not exceed DKK 10. Conversely, customers will receive a letter from the bank if the compensation exceeds DKK 10. The bank has informed us that approximately 181,000 customers have received compensation of less than DKK 10.

In general, we find that the bank's measures to stop the issue mean that it no longer charges interest on reminder fees. Since one of the bank's measures concerns the temporary suspension of interest accrual implemented with the Pause logic, it should be noted, however, that accounts that have had a green flagging as a result of manual review and correction may have had interest added until the red flagging of all cases implemented in summer 2021. In this connection, reference is made to our comments in section 6.3.

In general, we find that the bank has communicated to most of the customers who have been affected by the original issue regarding interest on reminder fees. We note, however, that the bank still needs to notify about 400 affected customers.

We also understand that the bank has decided not to communicate to the approximately 6,750 customers who, according to our understanding, were excluded because of challenges in obtaining a data basis that allows calculation of possible compensation. The bank thus considers the initial communication process for original sub-issue 1 to be completed. However, the bank has not initiated the communication process for customers potentially affected by additional sub-issue 2 (see the illustration in section 9.3.1.1). The bank currently estimates that 200,000 customers are to receive information about this additional sub-issue. We have not received a timetable from the bank showing when the bank expects to complete communication to these additional 200,000 customers.

#### *9.4.2.2 Norway*

##### *Nature and scope of the issue:*

This section deals with identified issue no. 2 concerning interest on fees for customers whose accounts have been opened in Norway. Reference is made to section 9.4.2.1 for the corresponding issue for customers whose accounts have been opened in Denmark. In connection with the bank's work to remedy the issue, the bank has concluded that issue no. 2 in Norway currently covers three elements:

Firstly, the issue is that the bank has charged interest on reminder fees from an earlier date than it was entitled to under Norwegian law. In this connection, the bank has stated that pursuant to Norwegian law, interest may be charged on reminder fees only after the due date of the reminder fee. However, the bank has charged interest on reminder fees already from the date of sending the reminder fee. The charging of interest from too early a date implies a risk of overcollection from the customer paying the reminder fee.

Secondly, the issue concerns the fact that the bank has charged interest on reminder fees using too high an interest rate. In this connection, the bank states that interest on reminder fees may be based on the highest rate permitted under Norwegian law and that the rate is changed every six months. The error therefore consists in the bank applying an interest rate higher than the rate permitted, which causes overcollection from the customer.

Thirdly, the issue concerns the wrongful charging of compound interest, since the bank, as far as we know, has stated that according to Norwegian law, the bank is entitled to charge only simple interest. The bank does not describe this issue in detail in the material available.

In addition, when working on issue no. 2 in Norway, the bank has identified a fourth element: namely that the bank may have charged *too high* reminder fees. This was communicated to the Danish FSA in quarterly reporting on 30 September 2021. At 29 October 2021, we did not have material that describes the fourth sub-issue identified further, and the bank has informed us that analyses of this issue are ongoing.

The bank's clean-up work relating to issue no. 2 in Norway concerns reminder fees charged in the period from 1 January 2008 to 26 September 2021 in the banking systems and the DCS system. At a meeting held on 22 September 2021, the bank informed us that the period limitation was due to the fact that, in the opinion of the bank, 1 January 2008 is the earliest date to which the bank is obliged to go back, as the customers' claims are otherwise time-barred under Norwegian legislation. We have not made an independent assessment of this issue. We have been informed by the bank that the issue was stopped on 26 January 2021, on which date the bank took measures to stop the issue.

We note that the bank will only investigate cases dating back to 1 January 2008, as a customer's potential claim for repayment established before that date will be time-barred due to the absolute limitation period in Norway. We note that in its statement to the Danish FSA of 1 September 2021, the bank stated that the reason for the error dates back to 2006. Thus, there is a period from 2006 to 1 January 2008, which the bank does not plan to investigate further, as a customer's potential claim for repayment established before that date will be time-barred due to the absolute limitation period in Norway. We note that this approach deviates from the approach adopted by the bank in Denmark and where the bank to the extent it has available data will compensate customers back to the time when the error occurred, regardless of whether the repayment claims may be fully or partially time-barred in legal terms.

*The bank's preliminary analyses regarding compensation:*

In its preliminary analyses, the bank estimates that a total of 191,000 customers may be affected by issue no. 2 in Norway. Of these, the bank *expects* that approximately 175,000 customers may be entitled to payment of cash compensation.

According to the information provided by the bank, this figure does not include some 8,000 customers whom the bank has decided to exclude in connection with the clean-up work. These customers have been excluded because their data has been deleted from the bank's systems, and it therefore will not be possible to calculate compensation amounts.

Provisionally, the bank estimates that the total compensation amount will be approximately NOK 68.7 million, which is a figure based solely on the reminder fees charged and which does not include interest and time compensation. The material available does not describe in detail how the bank has reached this figure, but the bank's analyses show that the estimate is subject to considerable uncertainty. At subsequent meetings with us, the bank has emphasised that the figures are, in general, subject to considerable uncertainty at the present time, and that they are expected to either increase or decrease.

In this connection, the bank states that under Norwegian rules, the bank will be under an obligation to pay all costs related to the wrongful collection, as was also stated in the bank's statement to the Danish FSA of 1 September 2021. According to the information provided by the

bank, this also includes a requirement to repay the fee on which interest was wrongfully charged, even though the fee itself was originally charged correctly.

At meetings held on 9 and 22 September 2021, the bank has informed us that payment of compensation awaits the final approval of a compensation calculation model and clarification of the tax implications that payment of compensation may have for the customer. The bank has a dialogue with the Norwegian tax authorities regarding this matter. It is our understanding that this dialogue is ongoing.

*The bank's measures to stop the issue and inform customers:*

In order to stop issue no. 2 in Norway, the bank has in the DCS and banking systems set the value date for reminder fees at 31 December 2022. According to the bank, the forward dating of the value date of all reminder fees will ensure that no interest is charged on reminder fees in the systems unless the interest calculation functionality has not been corrected before 31 December 2022. According to the information provided, this measure was implemented on 26 January 2021 in the DCS and banking systems. However, the measure covers only reminder fees charged after 26 January 2021, when the correction was made. In this connection, we note that we have not gained insight into how the bank in Norway will ensure that interest does not continue to accrue on reminder fees charged before 26 January 2021.

Moreover, we note that, as stated by the bank at a meeting held on 22 September 2021, the bank continues to charge reminder fees to its customers in Norway.

We also note that the bank's general Pause logic applies only to customers in Denmark. We cannot determine whether the bank has taken separate measures to ensure that customers who are affected by the issue in Norway are not subject to overcollection. Although the risk of this is probably small in view of the proportion of total debt that a fee would normally amount to, the bank does not appear to have carried out any separate investigation of this.

For some of the customers affected, the bank has informed us that their cases have been sent to external debt collection agencies. We understand that this involves approximately 4,000 customers who have currently been sent to a debt collection agency in Norway. The bank has informed us that since 25 June 2021, repayment has been suspended for these customers.

At its meeting on 9 September 2021, the bank informed us that 99% of the potentially affected customers had received an information letter. In this connection, the bank has sent letters to approximately 174,000 customers. The last customers (1%) are characterised as being former customers of the bank, for whom the bank does not have address and account information. It is our understanding that the bank currently has a dialogue with the Danish FSA in Norway about the detailed handling of these customers.



We conclude that the bank has communicated to all potentially affected customers, for whom the bank has had address information registered in the system, and that the bank as soon as possible will initiate a dialogue with the FSA in Norway regarding the remaining customers who have not yet received any information. The customers have been informed that the bank may have charged too high interest rates on reminder fees and that they may be entitled to compensation. In addition, we have been informed that the bank will contact customers as soon as there are any updates in their case. Finally, the bank refers to the <https://danskebank.no/purregebyr> website. We can therefore find that the customers have been informed of the issue in question.

We note that the bank's general Pause logic has been implemented only for the bank's debt collection systems (DCS and PF). We have no basis for assessing to what extent the issue entails a risk that affected customers in Norway will in future be subject to overcollection.

According to the information provided, the bank has not yet sent an information letter to customers who may be affected by the new (fourth) issue regarding the possible charging of too high fees.

#### ***9.4.3 Issue no. 3 – Errors in relation to the correction of cases in the PF system***

##### ***Nature and scope of the issue:***

Additional issue no. 3 concerns errors in connection with the manual correction of cases in the PF system, as errors have been proven to exist in the documentation used for corrections for root cause 1 in the period from August 2019 to October 2020 (see the description above in section 6.3).

The issue involves two aspects:

**Firstly**, in cases with so-called 20% guarantees, the bank has made the entire correction in either the PF system, and thus in the customer's debt to Realkredit Danmark, or in the DCS system, and thus only in the customer's debt to the bank. The bank has obtained external legal advice to the effect that the correction should have been implemented pro-rata in the systems, which, due to differences in the interest rates applied, has led to the charging of too high an interest rate for some customers.

**Secondly**, in the correction process, it was assumed that certain contributions and commissions had a 10-year limitation period. The bank has later assessed that the contributions and commissions in question had limitation period of only three years. Thus, errors may have occurred in connection with the assessment of limitation, whereby part of the debt was wrongly stated as legally enforceable even though the amounts involved were time-barred.

##### ***The bank's preliminary analyses regarding compensation:***

According to the information provided, the bank has in the period until October 2020 corrected 4,500 customer cases in the PF system. In these cases, due to the issue described, the corrections

made may be incorrect, and these customer cases may therefore have been incorrectly flagged as green in the system.

As a result of the errors found in the correction process, incorrectly calculated claims may have been submitted in bankruptcy/probate cases. The bank has addressed this under issue no. 1 as the claims submitted in these cases have been withdrawn or corrected (see section 9.4.1). According to the information provided, the bank does not expect that payment of compensation will be required in these cases.

However, the bank's analyses have not yet ruled out, in cases other than bankruptcy/probate cases, a possible requirement for compensation to customers from whom, as a result of the error, the bank has overcollected. This will be based on a calculation of the correct debt owed to the bank itself and to Realkredit Danmark A/S. The procedure in relation to this awaits further clarification at the bank to determine whether all affected cases should be processed manually.

*The bank's measures to stop the issue and inform customers:*

According to the information provided by the bank in October 2020, the bank has stopped correction of PF cases. According to the bank, in individual cases, however, corrections have been made by an experienced specialist. We do not have any detailed insight into the way in which these cases are corrected.

As described above, some 4,500 customer cases had already been manually corrected prior to the bank's suspension of correction in PF cases. After a long analysis phase, the bank decided end-May 2021 that these cases should again be flagged red and thus be covered by the Pause logic. According to the information provided, this flagging was communicated to the bank's employees at a meeting on 2 June 2021 and implemented in the systems on 5 July 2021 (see section 6.4).

As stated above, all cases have thus been flagged red again in the systems from 5 July 2021. The bank has also sent a general letter informing customers of the risk of additional errors, including, among others, this issue. As stated in section 9.3, the letter was sent to the bank's customers from August 2021, but according to the bank, it is not expected to have been sent to all customers until the end of October 2021.

The issue with errors in the correction of cases in the PF was described by the bank already in a statement to the Danish FSA of 21 September 2020. Moreover, since October 2020, no new corrections have been made of cases in the PF due to the risk of errors, and in December 2020, the bank sent an ORIS report on this subject. At the beginning of the year, the error was sought corrected in bankruptcy/probate cases (see section 9.4.1).

Despite the above measures, the bank does not appear to have taken care of those customers who could still be affected by the error and whose debt to the bank may not have been calculated correctly due to the error until June-July 2021. Thus, the bank did not inform its employees until

2 June 2021 and flag these cases as red and thus as covered by the Pause logic until on 5 July 2021. Moreover, customers were not informed about the risk of errors until about three months later, and the last customers are expected to be informed towards the end of October 2021.

In this connection, it should be noted that until July 2021, the customers affected were flagged green in the bank's systems and that in the autumn of 2020, they will have received a letter from the bank stating that their case was not affected by errors, see section 3.3.1.3 above. In this context, the bank does not appear to have informed customers as soon as the error was discovered and the customers affected identified.

For the bank's notification of customers, reference is made to the general comment in sections 6.6.2 and 9.3.1.1.

#### **9.4.4 Issue no. 4 – Reporting to RKI, etc.**

##### Nature and scope of the issue:

Additional issue no. 4 concerns the bank's internal credit risk assessment of its customers and the bank's registration of customers in the RKI credit reference register. The bank has divided the issue into two sub-issues:

Sub-issue 4a concerns the bank automatically assigning the bank's lowest credit risk classification, a so-called D4 credit classification, to all customers whose debt is transferred to debt collection in the bank's debt collection systems. According to the information provided, the bank will maintain the customer's D4 credit classification for six months from the date when a customer has repaid the debt or for five years from the date on which the bank decides to write off an unsecured outstanding debt. The issue can be divided into two scenarios: additional issues 4a.1) that in some cases the bank may have assigned customers a D4 credit classification on a wrongful basis, and additional issue 4a.2) that in some cases the bank may have maintained the D4 credit classification for too long.

The bank has informed us that it has not assigned any customers a D4 credit classification on a wrongful basis at the time the classification was assigned (scenario 4a.1). On the other hand, according to the bank, there are currently (as at February 2021) approximately 7,600 cases in the bank's debt collection systems where there is a risk that the bank has stopped or will be maintaining its customers' D4 credit status too long (scenario 4a.2). This is because the customers' cases in the bank's debt collection systems are registered as open cases even though the customers have actually repaid their debt.

Sub-issue 4b concerns the bank's registration of customers in the RKI credit reference register, and this issue may be divided into three additional scenarios, as stated by the bank:

that the bank 4b.1) may in a number of cases have registered customers in RKI on an wrongful basis,

that the bank 4b.2) may in a number of cases have maintained customers' registration in RKI for too long, and

that the bank 4b.3) may in a number of cases have registered customers in RKI with erroneous debt information, including as a result of the four root causes or as a result of the additional issues identified.

*The bank's preliminary analysis regarding compensation:*

The bank is of the opinion that customers who have been wrongfully assigned a D4 credit risk classification will not be entitled to compensation because the customers in question have not suffered any financial losses as a result of the bank's potentially incorrect internal credit assessment.

Furthermore, the bank considers that customers who have been registered incorrectly with RKI are not, as a general rule, entitled to compensation. However, the bank informs us that it will process any customer inquiries about possible compensation in accordance with the process established by the bank for handling customer claims for compensation for indirect financial losses (see section 7.9 above).

We agree with the bank's assessment that the customers affected by sub-issue 4a are not generally entitled to compensation.

As stated above, section 1.2, it goes beyond the scope of this report to assess the bank's calculation and payment of potential compensation related to the additional issues. Consequently, we have not assessed whether the bank's customers will or may be entitled to compensation, including any compensation for immaterial damage, if they have been wrongfully registered in RKI or if otherwise justified registration in RKI has been maintained for too long. Nor have we assessed whether one or more customers may be entitled to compensation for any direct loss that they may have suffered as a result of an error in the bank's reporting to RKI or as a result of incorrect maintenance of a registration in RKI.

*The bank's measures to stop the issue and inform customers:*

According to the information provided by the bank, the bank has not introduced any measures to stop sub-issue 4a. The bank has therefore decided to accept that the number of cases in which the customers concerned risk having their D4 credit classifications assigned to them for too long (scenario 4a.2) continues to increase. According to the information provided by the bank, the bank is currently planning a separate project to handle these cases. In addition, the bank has stated that it does not at present intend to communicate with the customers concerned in this regard. We

have not assessed the extent to which this raises legal questions relating to the issue of personal data.

On 25 October 2021, the bank stated that in order to stop sub-issue 4b, including in relation to the risk that the bank may have registered customers in RKI on a wrongful basis (sub-issue 4a.1) since June 2021, the bank has not registered customers in RKI since June 2021.

If respect of the customers whose registration with RKI has potentially been maintained for too long (scenario 4b.2), according to our information, the bank carried out a manual review of 216 relevant cases that were flagged as closed in the bank's collection systems because the customers had repaid their debt, whereas the customers remained registered in RKI, however. Following the review, the bank withdrawn the registration of 27 customers from the RKI register because, in the bank's assessment, these customers' registrations with RKI had been maintained for too long.

We note that the bank has carried out one review of customers whose registration with RKI may have been maintained for too long after their case has been closed (scenario 4b.2) and that this review was carried out in March 2021. It is our understanding that removal of a customer from the RKI credit reference register is a manual process that is carried out in connection with the closure of the individual case.

According to the information provided by the bank, the bank is also investigating whether additional customers are currently registered in RKI on a wrongful basis. At its meeting on 17 September 2021, the bank detailed the status of the bank's review. At the meeting, the bank informed us that it has provisionally reviewed the RKI-registered customers who are also affected by root causes 1 and 2, without any additional customers being removed from RKI as a result. The bank further informed us that it is currently reviewing customers registered in RKI who may also be affected by root causes 3 and 4. We were informed by the bank that that review had not been completed as of 17 September 2021. In addition, the bank informed us that on 17 September 2021 the bank had not yet initiated an investigation into whether there are customers registered in RKI who are also affected by one or more of the additional issues and should therefore be deleted from the RKI register. In connection with its preliminary analysis of the additional issue no. 13 (debt collection agencies), the bank itself has pointed out the risk that affected customers may, as a result, be registered with RKI on an erroneous basis (see section 9.4.13 below).<sup>13</sup>

We note that in view of the nature and scope of root causes 1-4 and the additional issues identified, the bank cannot rule out that a large or small number of customers may still be registered in RKI on an erroneous basis, see for example section 9.4.13 on additional issue no. 13 (debt collection agencies). At a meeting on 17 September 2021, the bank acknowledged that it was in agreement

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<sup>13</sup> "These discrepancies [between the DCA systems and the DCS] may have led to customer detriment through: overcollection, wrongful tax reporting, wrongful credit scoring and RKI registrations as well as multiple communications from DCA/Danske Bank", see page 6 of the bank's "Fact Pack" prepared in June 2021 in respect of additional issue no. 13.

with this. In continuation of this, the bank has informed us that on 22 October 2021, the bank decided to withdraw the registration of all customers registered with RKI at the request of the bank today and where the risk of errors cannot be ruled out, and that the bank will initiate a dialogue with Experian A/S (the owner of RKI) about such withdrawal of registrations. According to the information provided, the bank expects to be able to inform the customers in question of the withdrawal of their registrations not later than at the end of 2021.

The bank has informed us that it has notified the 27 customers whose registrations have already been withdrawn from RKI in connection with the bank's manual investigation of 216 closed cases (see above). The bank has also informed us that it will notify all remaining customers currently registered with RKI when their registrations have been withdrawn (see the bank's decision of 22 October 2021).

#### **9.4.5 Issue no. 5 – Vulnerable customers**

##### *Nature and scope of the issue:*

Additional issue no. 5 concerns the bank's handling of particularly vulnerable customers against whom the bank has had debt collection claims. A vulnerable customer is defined by the bank as a customer who, because of serious illness, personal circumstances (including divorce, unemployment, death of spouse/registered partner), has difficulty in repaying the debt. Examples of vulnerable customers may also include people facing social issues, such as homelessness.

In its analyses, the bank has aimed to establish how it has dealt with these vulnerable customers, also with a view to determining whether the bank has taken the special circumstances of these customers into account. In this connection, the bank has also examined whether the bank's debt collection department has the necessary foundation to ensure proper processing of customers now and in the future, both from a legal perspective and from a behavioural perspective.

According to the information provided, the bank has conducted interviews with a number of employees in its legal department and with a number of the bank's debt collection specialists. The interviews have confirmed that the bank's debt collection department is entitled to collect debts irrespective of the customer's health, and that the existing Service Level Agreement for the collection agencies used by the bank adequately reflects the bank's wish that, despite the legal basis, vulnerable customers are taken into account when debts are transferred to debt collection. However, the bank has not prepared a properly formalised guide in this area, and at a case-processing level, there is therefore no structured description of the measures that may be relevant to implement when a vulnerable customer becomes subject to debt collection.

On the basis of the investigation, the bank has concluded that issue no. 5 is closed without the need for compensation or changes to IT systems because the bank does not believe that it has acted in contravention of either legal or behavioural standards. However, the bank will prepare and implement procedural guidelines for the case handlers to ensure that the bank takes a more

structured approach when it becomes known that a customer is a vulnerable individual. The first version of the guidelines for handling vulnerable customers in the bank's debt collection department was approved at the beginning of February 2021, and according to the information provided, the guidelines have subsequently been implemented in the cases handled by the collection department. We have been sent the guidelines for our review, but we have not at this stage made an independent assessment of whether the described practice complies with the applicable rules covering personal data, including whether the bank's registration of the information requires specific or explicit consent from the customers.

Overall, we find that the bank's investigation and measures in relation to issue no. 5 are sufficient, subject to the condition that, as mentioned in this report, we have not carried out an independent assessment of any issues relating to data protection legislation.

#### **9.4.6 Issue no. 6 – Interest rates in the DCS and the PF**

##### Nature and scope of the issue:

Additional issue no. 6 concerns a number of different matters in relation to the bank's calculation and addition of late-payment interest in the bank's two debt collection systems: PF and DCS. The bank has divided the additional issue into three sub-issues:

Sub-issue 6a concerns the fact that the bank's practice for setting late-payment interest in cases of unsecured mortgage loans moved to PF for debt collection has resulted in the bank calculating and adding very low interest on late-payment interest in a number of cases – even adding negative interest in some cases.

The bank has informed the Danish FSA that Realkredit Danmark A/S's general business terms and conditions, which are included in the contract between customers and the mortgage credit institution, are generally agreed upon with a late-payment interest rate of 9% p.a. if the customer defaults on the obligation to repay the agreed mortgage loan or if the mortgage credit institution does not obtain full cover of its total claim (mortgage), for example in connection with the sale of the customer's property in a non-forced property sale in which a loss is accepted or in a forced sale. According to the information provided by the bank, however, it is the bank's practice in such cases to set the late-payment interest rate in the PF at the borrowing rate that is offered on the lowest-interest mortgage loan provided by Realkredit Danmark A/S with collateral in the property in question.

Information provided by the bank states that during a period of time the bank calculated negative interest on late payments in about 1,240 cases, and the bank has calculated very low interest rates for a further 10,850 cases in the PF.

We note that the consequences of the sub-issue described are generally positive for the customers concerned. In the cases in question in which the bank has added negative interest on late payments, customers have benefited from the fact that their outstanding debt has been in effect

written down without the customers having repaid the debt themselves. For the customers in question who have paid a low late payment interest to the bank, this is also more advantageous than if the bank had charged the 9% p.a. interest rate that Realkredit Danmark A/S has the contractual right to calculate in accordance with the loan agreement.

Sub-issue 6b concerns the fact that the bank has in a number of cases provided a guarantee to Realkredit Danmark A/S to cover part of a customers' unsecured mortgage loan, and that by meeting this guarantee, the bank takes on Realkredit Danmark A/S's claims.

According to the bank, it has collected its part of the customer's outstanding debt through DCS and has calculated a late-payment interest of 8.05% p.a. At the same time, Realkredit Danmark A/S has, according to the information provided, charged very low or negative late-payment interest for the remaining part of the customer's outstanding debt, see sub-issue 6a above.

Because the bank has assumed Realkredit Danmark A/S's rights, including the right to charge late-payment interest rate of 9.0% p.a. (see above), the bank considers that it has been entitled to charge the applicable late-payment interest rate of 8.05% p.a.

The bank has informed us that there are currently (as at March 2021) some 8,500 cases in which the bank has taken over as creditor for a part of Realkredit Danmark A/S's unsecured mortgage loan. Of this, 5,194 cases are still open cases in the DCS, whereas the remaining 3,264 are closed cases in the DCS.

Sub-issue 6c concerns the fact that the bank in some cases calculates very high rates of late-payment interest in the DCS.

The bank has informed us that until 2010 the high interest rates for late-payment interest were determined on the basis of the specific agreements between the bank and the customers in question; from 2010, the bank changed its general practice of setting late-payment interest rates in the DCS so that the bank's late-payment interest rate for all cases subject to a simple interest rate was set at 7.05% p.a. (from 1 March 2013: 8.05% p.a.).

We have been informed by the bank that there are currently (as at December 2020) some 43,000 cases in the DCS where customers are paying a late-payment interest rate of above 8.05% p.a., approx. 33,500 of whom are paying a late-payment interest rate of above 15% p.a.

As a result of sub-issue 6c, some customers who have defaulted on their payment obligations to the bank before 2010 can currently be paying a very high late-payment interest rate, whereas other customers who have defaulted on a similar obligation to the bank after 2010 are generally 'only' paying 7.05% p.a. in late-payment interest (8.05% p.a. if default occurred after 2013).

*The bank's preliminary analysis regarding compensation:*



The bank has concluded that customers who have been charged negative or very low interest on late payments to their debt in the PF (sub-issue 6a) are not entitled to compensation because in the bank's opinion these customers have not incurred any financial loss as a result of the bank's practice of setting the late-payment interest rate in the PF.

We agree with the bank's assessment that the bank's calculation of low or negative late-payment interest does not give rise to any compensation claims from the customers concerned because the bank has stated that it was contractually entitled to calculate a late-payment interest rate of 9,0%. In 2018, the bank ended calculation of the negative interest rates for all the customers affected by this issue. We do not have a basis for assessing whether the bank is obliged to reset the negative interest rate in its contractual relationship with the individual customer before the reset rate can enter into force. According to the information provided, the bank is looking into this matter further.

The bank also considers that in cases in which the bank covers Realkredit Danmark A/S's claim on a part of the customers' outstanding debt (sub-issue 6b), the customers in question are not generally entitled to compensation because the bank maintains that it is contractually entitled to charge 8.05% interest on late payments.

However, the bank also believes that its own and Realkredit Danmark A/S's communication to the customers regarding how the customers' outstanding debt was split may, with legitimate reason, have led customers to believe that that their outstanding debt (i.e. both the part with Realkredit Danmark A/S and the part with the bank) would be subject to the low late-payment interest rate in the PF, and that customers could therefore be entitled to compensation as a result of the bank's collection of the higher interest rate on late-payment in the DCS. According to the information provided by the bank, the bank has therefore decided to compensate the affected customers in this respect. The total expected compensation amount has not been disclosed, nor has it been disclosed whether the bank will compensate customers whose cases are still open in the DCS and customers whose cases are currently closed.

We have not carried out a separate assessment of whether the bank is obliged to compensate the customers concerned, and since the bank has not yet prepared a model for calculating compensation, we have not yet taken a position regarding this matter, see section 9.3.1.2 for more information.

The bank has also assessed that the customers who have been charged high late-payment interest in the DCS (sub-issue 6c) are not entitled to compensation because these customers have accepted the high late-payment interest rates when they entered into their contractual loan agreements with the bank.

However, the bank states that in relation to its general business conduct ("conduct perspective"), it may be problematic if the late-payment interest charged by the bank exceeds the bank's actual costs of recovering the customer's debt. In addition, the bank informs us that it will process any

enquiries from customers about possible compensation in accordance with the process for handling claims for compensation for indirect loss, see section 7.9 above.

*The bank's measures to stop the issue and inform customers:*

To stop sub-issue 6a, in particular to stop calculation of negative interest on late payment, the bank has since 2018 adjusted any negative late-payment interest rates in the PF system to a rate of 0%. In 2020, the bank added a functionality to the PF system that undertakes this correction automatically. According to the information provided by the bank, the customers affected have not been informed of this adjustment (increase) of the specific late-payment interest rates. We have not assessed the extent to which such information has been required because it is our opinion that more detailed knowledge of the specific contractual relationship and the history of the individual customers' cases is needed.

Information provided to us by the bank shows that the bank has not introduced any special measures to stop sub-issue 6b. Considering that the sub-issue arises from the bank's and Realkredit Danmark A/S's differing calculations of late-payment interest for (parts of) the same debt in terms of DCS and PF, we believe that the bank has provisionally stopped this situation by introducing the Pause logic in the DCS, which, among other things, has led to the decision to introduce the interest accrual suspension from 1 October 2020, see section 6.4.

According to the information provided, the bank has not introduced any special measures to stop sub-issue 6c. We do not have a basis for establishing whether or not the bank ought to have taken such measures because we have not reviewed the agreement between the bank and the customer in individual cases. We also note that, although it was found that bank had in some cases raised interest on late payments *excessively*, see above, the bank has now stopped this practice by suspending the accrual of interest on debt in the DCS in accordance with the Pause logic, see section 6.4.

The bank has informed us that in September it sent information letters to approximately 60,000 customers who may potentially be affected by one or more of the additional issues, including an unspecified number of customers who may potentially be affected by additional issue no. 6. However, we do not know whether this figure of 60,000 customers includes all customers who, according to the information provided by the bank, may be affected by the issue. Refer also to section 6.6.2 above on communication in relation to the additional issues.

We note that the subject of the bank's notification concerns only the cases in which the bank has covered Realkredit Danmark A/S's claim of 20% of the customers' outstanding debt and in this connection has charged a higher late-payment interest rate in connection with the collection of the customer's debt in the DCS (sub-issue 6b). The bank has informed us that, in addition to this, it expects to inform customers affected by sub-issue 6a before the end of 2021, and the bank expects to inform customers affected by sub-issue 6b when the bank makes the planned interest rate change.

#### **9.4.7 Issue no. 7 – Application of data in Tableau**

##### Nature and scope of the issue:

Additional issue no. 7 concerns the bank's investigation of whether erroneous data in reports from the Tableau program may have resulted in overcollection from its customers.

We understand that Tableau is the IT system used by the bank to visualise data from the bank's other IT systems. Because data in the bank's IT systems may be erroneous as a result of the four root causes and the additional issues, the visualisations may also include errors, and the bank has in this connection therefore examined *whether* the bank has used the erroneous visualisations for commercial and operational decisions in the bank's Debt Management department.

In connection with its analysis of the issue, the bank conducted interviews with a number of managers in its Debt Management department. The interviews have confirmed that the data errors were known at the time the reports from Tableau were produced and that the bank has therefore not used the reports to make commercial or operational decisions that may have led to the bank overcollecting from its customers. From 17 December 2020, the date on which the bank completed its analysis, the bank has included a disclaimer on the Tableau reports stating that the reports may be inaccurate as a result of erroneous data. According to the bank, this will ensure that the reports from Tableau are not used as the basis for any commercial decisions.

Based on its analysis, the bank has concluded that additional issue no. 7 is closed without any need for compensation because the error has not led to the risk that customers have been subject to overcollection. For the same reason, the bank has carried out no further communication to customers about additional issue no. 7.

#### **9.4.8 Issue no. 8 – Collection of actual legal costs**

##### Nature and scope of the issue:

In relation to additional issue no. 8 identified by the bank, it should be noted that this concerns the collection from the bank's customers of legal costs in civil debt collection cases which have been carried out by the courts.

The issue arises from the fact that, until 2008, the bank used external lawyers to collect debt from the bank's customers, including for the purpose of obtaining a judgment, and in cases where the lawyer has subsequently conducted one or more execution cases on behalf of the bank to levy execution in the customer's assets.

As described by the bank, the bank has presumably systematically or at least in many of the cases registered legal costs in the bank's systems based on the actual costs incurred by the bank for external assistance (typically legal assistance) in connection with the case. On the basis of this

registration, the bank has thus demanded payment from the customer for the actual costs incurred by the bank, even though in many cases these costs exceed the amount that the bank has been awarded by the court to cover legal costs and attendance fees. In this connection, we agree with the bank that, in these cases, the bank was not generally entitled to demand payment from the customer of more than the amount granted to the bank by the court.

Secondly, the bank found that, in some cases created in the DCS in connection with the transfer of cases to the system at the time of system implementation in 2004, the bank aggregated the legal costs and the principal.

The aggregation may pose a problem in that it is difficult for the bank to identify the cases in which the bank has collected legal costs from the customer and where overcollection therefore presumptively has taken place. In respect of these cases, it may therefore be necessary to carry out a manual examination in order to establish whether overcollection has taken place.

In addition, the aggregation may pose challenges in relation to the calculation of interest and limitation of claims, see also root cause no. 1 on aggregation of interest, fees and principal stated in section 5 in connection with the transfer of claims to the DCS.

*The bank's preliminary analyses regarding compensation:*

In the bank's analyses, we have not been able to find a clear conclusion as to when the issue of overcollection from the bank's customers may have arisen, but the bank estimates that the issue has existed at the bank for more than 30 years. The bank's analyses thus show that it has found examples of overcollection dating as far back as 1987. However, the bank only has data in the DCS from 2004, and according to the bank, clarification as to whether an individual customer has been subject to overcollection prior to this date requires a review of physical case files or extracts from old storage facilities, etc. to the extent that these exist.

As can be seen directly below, the bank has made a preliminary estimate of the expected compensation amount as a result of additional issue no. 8. In this connection, we note that the bank has emphasised to us that the amounts calculated are to a large extent provisional and are subject to considerable uncertainty, and it is to be expected that these figures may increase or decrease.

The bank has stated that approximately 25,000 customers in the DCS may be affected by the issue. In this connection, the bank's preliminary analyses estimate that the total effect on account balances for these customers (excluding interest accrual, see below) may amount to DKK 80 million. It is expected that only a small portion of the customers affected will receive compensation as a result of overcollection. For the remaining customers, the outstanding debt they have may be adjusted. In this context, the estimated amount represents the actual difference between the costs collected and the costs awarded and does not reflect interest and time compensation. Reference is made to section 9.3.1.2, which covers general comments on the figures provided.

According to the information provided, the preliminary estimates are based on spot checks made of cases in the DCS in relation to which the bank has noted whether the selected cases have been subject to overcollection and, if so, the extent to which overcollection has taken place. In addition, the calculation is based on assumptions resulting from experience gained from interviews with the bank's internal specialists. We do not have any information about the variance in the amounts identified, and in our opinion, we cannot rule out that individual customers may have significant repayment claims in connection with the issue. A simple calculation based on the figures provided by the bank indicates that the average compensation amount for the customers affected will be approximately DKK 3,200. The bank has informed us that the calculations are based on a total of 117 spot checks; consequently, a certain level of uncertainty is associated with the calculations.

The above estimates concern only customer cases registered in the DCS. In this connection, the bank has stated that compensation to customers whose cases were closed prior to the DCS being brought into operation and therefore not created in the DCS will depend on whether the necessary data relating to these cases can still be found or can be recreated. The bank's considerations in respect of this take into account that, to a wide extent, structured data is not available to the bank in these cases. According to the information provided, the bank will nevertheless investigate whether the necessary data can be found or recreated, and it will consider possible alternatives to a manual review of these cases.

The bank has not yet prepared a final model for calculating compensation, and the assessment of this falls outside the scope of this report, see section 1.2 above.

*The bank's measures to stop the issue and inform customers:*

The bank has informed us that the practice in question was in place until 2008, when the bank took up the task of bringing actions before the courts itself. In this connection, the bank has stated that it has only found one case in the period after 2008 where the bank has used an external lawyer for ordinary debt collection, and in this case, the costs are registered correctly. According to the information provided, it cannot be completely ruled out that there may be additional cases, but the bank believes that the costs in these cases have been handled correctly.

The bank has informed us that it has implemented business processes (case processing instructions) to ensure that, in future, correct data is entered into the bank's systems if the bank uses external assistance in exceptional cases. We therefore find that the bank has ensured that the issue will not be repeated or aggravated in future operations.

We note, see also section 6.4 above, that the bank has not documented that it has made a separate assessment of whether the issue of legal costs gives rise to a reconsideration of the bank's approach to suspension of debt collection, including the 60% threshold described in the same section. As stated above, the calculations made by the bank regarding the expected extent of compensation are subject to considerable uncertainty, and no information about the variance in amounts for individual customers is available. On this basis, we also believe that the issue of legal costs

increases the likelihood that, despite the implementation of the 60% threshold, overcollection from the customers actually affected will continue. On 15 October 2021, the bank thus decided to extend the Pause logic so that all payment agreements are automatically suspended, regardless of the amount of payments already made by the individual customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved (see section 6.4 for more information).

The bank has informed us that, in September, it sent information letters to approximately 60,000 customers who are potentially affected by one or more additional issues, including an unspecified number of customers who are potentially affected by additional issue no. 8. According to our understanding, at 1 October 2021, the bank had not informed all customers who, according to the information provided by the bank, may be affected by the issue despite the fact that the bank completed its preliminary analysis of the subject in April 2021. Please also refer to section 6.6.2 above on communication in relation to the additional issues.

#### **9.4.9 Issue no. 9 – Legal costs potentially aggregated with the principal**

##### Nature and scope of the issue:

Additional issue no. 9 concerns the bank's investigation of whether granted legal costs may have been added to the principal in the DCS. This investigation was initiated in continuation of root cause 1, which entails the risk of wrongful calculation of interest and incorrect calculation of time-barring when other claims are aggregated with the principal (see section 5).

The issue relates only to legal costs awarded since the implementation of the DCS in 2004 which may have arisen as a result of the systemic errors in the DCS. For the handling of cases where the legal costs were granted before 2004 and where the costs granted may have been aggregated with the principal in connection with the transfer of cases to the DCS, see section 9.4.8 above (for additional issue no. 8).

In connection with the investigation of the issue, the bank has worked with two assumptions in relation to situations where aggregation may have taken place in the DCS. The bank has examined whether the aggregation may have taken place 1) in connection with the transfer of the case from the banking systems to the DCS, and 2) in connection with the subsequent creation of the legal costs claim in the DCS.

The bank has concluded that the legal costs were never added in the banking systems before the case was transferred to the DCS, and consequently, the claims cannot have been aggregated with the principal in connection with the transfer from the banking systems to the DCS.

The bank has also concluded that, in all cases, the legal costs have been correctly created in connection with the subsequent creation of the claim in the DCS.

The bank's conclusions are based on interviews with internal specialists and reviews of case processing guidelines and a number of spot checks.

However, the bank's investigations have led to further investigations into whether the bank has added other costs to the principal in insolvency proceedings relating to business customers. The bank has stated that such costs may, for example, include fees to auditors and out-of-court debt collection costs. The investigation is handled as additional issue no. 25, where the analysis is pending. This matter is therefore not discussed in more detail in this report, see section 1.2.

The bank has concluded that additional issue no. 9 is closed without the need for compensation and changes to IT systems, as the bank concludes that the error has not led to a risk that customers have been subject to overcollection. For the same reason, the bank has not communicated the issue to its customers.

Against this background, the bank has closed this issue with the conclusion that the issue can be dismissed. We understand that the reason for raising the issue in the first place was a theoretical risk of errors, which the bank has been able to dismiss on the basis of spot checks. We have no grounds for disputing the bank's conclusion in this respect.

#### **9.4.10 Issue no. 10 – Estate agent fees**

##### *Nature and scope of the issue:*

In relation to additional issue no. 10 identified by the bank, it should be noted that this concerns the bank's behaviour in cases where the bank's customers with the bank's acceptance have carried out so-called non-forced property sales in which a loss is accepted – i.e. real property sold with mortgage debt where the bank has only partially recovered its claim or not at all. As described to us, the bank has had a consistent practice in the type of cases listed above, which meant that fees to real estate agents had to be negotiated on the basis of a table (a so-called "maximum acceptable fee" list) if the bank were to give discharge for a mortgage without fully recovering the secured claim. The list thus contained indicative maximum prices for the agent fees per property type relative to the agreed asking price.

According to the bank, the bank has, however, departed from the principle of price negotiation in cases where the customer has chosen to carry out a non-forced sale through a real estate agent from the *home* chain, which has been owned by the bank since 2001. In these cases, the bank has accepted larger real estate agent fees other than those that the bank would have accepted if the customer had chosen another real estate agent. Ultimately, this has meant that, after carrying through transactions, the bank's customers have had a higher unsecured outstanding debt to the bank and any other mortgagees, while the bank's real estate agent chain, *home*, has obtained a similarly higher fee for acting as an agent in connection with the sale of the property.

The bank has found that the preferential treatment of *home* has affected customers in the period from 1 February 2013 to 11 July 2019. In this connection, the bank has informed us that it has determined, through a review of work descriptions and interviews with employees, that the practice was introduced in February 2013, when the bank approved and put into service a local work description containing requirements for negotiation of real estate agent fees, except for fees from *home*. The bank's investigations have also revealed that, prior to February 2013, the bank was allegedly not involved in the determination of the fees between the bank's customer and the real estate agent chosen by the customer. We have not obtained any insight into the documentation on the basis of which the bank assumed that the practice in question was not established until 2013, but the bank has stated that approximately 50 physical cases from around 2012 have been reviewed and interviews have been conducted with employees with the highest seniority in order to determine whether the described practice also existed prior to the introduction of the work description in February 2013. According to the information provided, the bank has not found any indications in connection with these investigations that the practice described existed prior to February 2013.

*The bank's preliminary analyses regarding compensation:*

The bank has decided to compensate customers affected by the above practice in the period February 2013 – July 2019, partly by compensating customers who have repaid outstanding debt, the amount of which has been affected by an "excess" real estate agent fee, and partly by reducing the outstanding debt from customers who have not been subject to "overcollection", but whose outstanding debt has been affected by the fee. In this connection, it should be noted that the bank has obtained external legal advice that substantiates that the bank's behaviour in the cases in question may have been contrary to good banking practice and that the bank may be liable in damages in cases where the bank has failed to negotiate a fee from *home*. We have not made an assessment of the question of liability for damages, as the bank has decided to compensate the affected customers regardless of whether a liability for damages could be established.

As is described below, the bank has made a preliminary estimate of the number of customers potentially entitled to compensation due to additional issue no. 10, and the bank has also made a preliminary estimate of the compensation amount. In this connection, however, we note that the bank has stressed that the figures are preliminary and are based solely on a selected sample of cases. The preliminary figures may thus both increase and decrease. We refer to our comments in section 9.3.1.2.

The bank has stated that a review of cases has shown that 1,231 of the bank's customers may be entitled to compensation. However, as mentioned above, this figure is preliminary.

At the moment, the bank expects that the overcollection will be calculated on the basis of the difference between, on the one hand, the agreed real estate agent fee with *home*, and, on the other hand, the indicative maximum price according to the bank's table less 10%. In respect of the latter, it is noted that, in a sample review of 93 cases, the bank found that, in connection with a price



negotiation with the relevant real estate agent in cases where *home* was not the customer's choice, a real estate agent fee was agreed that was very close to the list price, but in some cases was up to about 10% lower.

The bank will add a time compensation to the compensation on the basis of the same principles as those applied by the bank in relation to compensation for the four root causes, see section 7.8 above.

In general, we take the preliminary view that the model above will lead to the payment of "full compensation" for the direct loss that the bank's customers may have incurred in connection with the issue concerning fees for *home*.

As is the case with the compensation models for the four root causes, to our understanding, compensation is only paid to the extent that the customer does not still have enforceable debt to the bank in the relevant case that exceeds the difference between the agreed fee and the fee that can be calculated on the basis of the maximum price in the list less 10%. This also means that a number of customers who have agreed to a "too large" fee with a real estate agent from the *home* chain will not receive any compensation for overcollection, but will still be registered in the bank's systems with an excessive outstanding debt. For these customers, compensation will be made by set-off in connection with the bank's data correction in these cases (the so-called "write back").

The bank has performed preliminary calculations showing that customers in the sample cases selected were entitled to compensation of approximately DKK 15,000 on average and that the compensation for 51% of customers would amount to DKK 12,500 or less. These amounts relate only to the actual overcollection, i.e. the difference between the actual fee paid and the listed maximum price according to the bank's table less 10%. According to the information provided, the average is calculated on the basis of a model other than the one that the bank expects to use, since the difference in fees in connection with the calculations is calculated on the basis of the maximum price in the list less 1.5% instead of the 10% expected to be included in the bank's compensation model (see above). This is because the adjustment of the deduction from 1.5% to 10% has been decided by the bank in the relevant decision-making body *after* the date when the calculations of the average compensation were carried out. All other things being equal, this means that the average compensation will be higher than that resulting from the calculations.

The bank has not yet paid compensation as the final determination of the compensation model depends on the clarification of matters regarding the tax treatment of the compensation, but compensation is expected to be paid in the fourth quarter of 2021 or in the beginning of 2022.

As stated above, section 1.2, this report does not include an assessment of the bank's model of compensation for additional issues, including whether the bank has identified all affected customers.

The bank's measures to stop the issue and inform customers:

The bank has stated that it has taken measures to ensure that the issue no longer exists in its operations, as the bank adopted clear guidelines in July 2019 that mean that *home* is not treated differently than other real estate agents.

In the period from November 2020 to October 2021, the bank informed approximately 1,300 customers that they may be affected by the issue and that the bank is investigating the issue further.

**9.4.11 Issue no. 11 – Reporting to the Danish tax authorities**

Nature and scope of the issue:

Additional issue no. 11 concerns incorrect reporting to the Danish tax authorities due to errors in the bank's data basis.

Each year, the bank reports data to the Danish tax authorities on the outstanding debt of the customers and on accrued and paid interest. The information will appear in the customers' pre-printed tax assessment notice, and it may also affect the calculation of the customers' back tax, if any, as a result of the right to deduct interest expenses.

As a result of the four root causes and several of the additional issues (including the additional issues nos. 2, 6, 8, 13, 16 and 17 mentioned in this section), the bank has currently registered flawed data in its IT systems, including data on the outstanding debt of customers and interest accrued. Some customers are thus registered with too large debts, some guarantors may be registered as jointly and severally liable debtors (root cause no. 3) and no "link" is registered between jointly and severally liable debtors, which means that both debtors may be registered with the full amount of debt (root cause no. 4).

The consequence for customers is firstly that the amount of outstanding debt pre-printed in the customers tax assessment notice from the Danish tax authorities may be too large, which may in some cases affect the customer's relationship with a third part and secondly that the customer may have received too much tax relief in a number of previous income years.

We note that the issue regarding reporting of erroneous information to the tax authorities may also be relevant for Norwegian customers. According to the information provided by the bank, this had not been established by March 2021, and we have not subsequently received any information about whether this matter has been resolved by the bank.

We note that, in addition to the data quality issues, the bank also states that errors have been identified in the functionality regarding reporting to the tax authorities. This applies, for example, to errors in the so-called flagging of arrears, which indicates whether the customer has unpaid interest accrued in previous income years, and to errors in reason codes in connection with

cancellation or time-barring of debt. Both issues may affect the customers' right to deduct interest, and, according to the information provided by the bank, the issues will be considered by the bank in connection with the handling of additional issue no. 23 (which is not considered in more detail in this partial report). Finally, it should be noted that, according to the information provided, the current functionality cannot handle automated correction reporting when two or more debtors are liable for the same claim and cannot handle automated corrective reporting, which is relevant in cases where data changes retroactively, for example because an incorrectly recorded payment is withdrawn or moved to another account by the bank after the time when the reporting for the given income years was made. According to the information provided, handling of both matters requires changes in the bank's IT systems.

*The bank's preliminary analyses regarding compensation:*

In its analysis, prepared in March 2021, the bank has assessed that, in general, no customers are entitled to compensation as a result of this issue, and consequently the bank will not proactively compensate any customers (see, however, the information above about sub-issues addressed in connection with additional issue no. 23).

On the basis of the information provided, we cannot assess whether it is correct that none of the bank's customers can suffer a loss as a result of the issue. For some customers, the issue may have led to customers deducting interest that did not (fully) exist because interest has been calculated on the basis of a too large amount of outstanding debt. We have not made any independent assessment of whether the bank's customers are under an obligation to correct their tax assessment notices for one or more income years when they are informed of the error, and we cannot assess whether this may lead to a claim for additional payment of taxes and interest thereon, etc. We will make a decision on this when the bank has made a final decision on how the bank's customers will be compensated in connection with the tax implications, if any, of repayments and any debt relief, if any, in connection with correction of the balance of the customers' outstanding debt.

*The bank's measures to stop the issue and inform customers:*

According to the information provided, the bank sent letters in January 2021 to all potentially affected customers. The letter states that the customers' tax assessment notice from the Danish Tax Agency and the annual update from the bank may be affected by errors in the bank's debt collection systems. The letter also states that the customer does not have to do anything and will be contacted again after the bank has reviewed the case and that the bank expects to have a clarified the issue before July 2021.

We note that the bank has stated in its information letters to customers that the issue is expected to be clarified by July 2021. In this connection, we note that, according to the information provided, the bank has not yet followed up on this with updates to customers.

The bank's statement to the Danish FSA of 30 September 2021 states on page 21, under the status of "stop the tap" for additional issue no. 11 that the bank considers the question of "stopping" the issue to be "not relevant" because the issue relates solely to the 2004-2019 period. We note that, as long as data on the outstanding debt of customers in the bank's systems is flawed, the bank will either report incorrectly to the Danish tax authorities or must refrain from fulfilling its reporting duty altogether.

The Danish Tax Agency has also informed the bank that corrections must be made on an ongoing basis as customer cases are reviewed and corrected. In this connection, we have not considered the principles on which the bank will base its correction of customer debt in the system, including how the bank will ensure correct accrual etc.

According to the Danish Tax Agency's draft decision of 19 February 2021, after 1 May 2021, correction is to take place only of reporting for the income years from 2018 and onwards. This is due to the general deadline for the reopening of customers' tax assessments.

The Danish Tax Agency's draft decision also states that the bank must inform customers of the correction reporting within a period of 14 days after such reporting has taken place.

According to the information provided, the bank has initiated a dialogue with the Danish Tax Agency after having received the agency's draft decision, as the bank states that it does not agree with the draft decision. According to the information provided, the Danish Tax Agency has not yet made a final decision in this matter.

#### **9.4.12 Issue no. 12 – GDPR**

##### Nature and scope of the issue:

In connection with the errors in the bank's debt collection systems, the bank has found that it has processed flawed personal data of approximately 250,000 customers, which, in the opinion of the bank itself, constitutes a breach of article 5(1)(d) of the General Data Protection Act. Towards the end of 2019, the bank became aware that the processing of the flawed personal data (account balance information about customers' debts) constituted a breach of personal data rules that the bank was under an obligation to report (see article 33 of the General Data Protection Regulation).

These errors are systemic errors in data due to root causes 1-4, i.e. errors caused by flawed data migration, a lack of reconciliation of data and incorrect use of the bank's debt collection systems. Furthermore, the errors are characterised by the fact that the bank cannot easily identify the errors in its systems and correct them.

It is unclear whether the bank's estimate of the number of persons affected covers only the bank's customers or whether this number also covers other persons, such as guarantors, family members of customers, etc.

In its analyses of the problem, including through involvement of the bank's data protection officer (DPO), the bank has focused on article 5(1)(d) of the General Data Protection Regulation regarding the accuracy of personal data. The bank has also obtained advice from external sources on whether RKI, the courts and the Danish tax authorities are under an obligation to report the flawed data received from the bank to the Danish Data Protection Agency. We understand that, in accordance with the advice the bank has received, information about the flawed data supplied by the bank has been provided to RKI, the courts and the Danish tax authorities.

The bank's analysis of additional issue no. 12 is limited to covering errors in the balance of registered customers' debt resulting from root causes 1-4 and the additional issues identified. Within the framework of this issue, the bank has not investigated other matters, including matters relating to the bank's compliance with other parts of the General Data Protection Regulation, including compliance with article 5(1)(a) of the General Data Protection Regulation (the principle of lawfulness and fairness), article 5(1)(e) of the General Data Protection Regulation (storage limitation) and examination of the bank's duty to ensure that recipients of flawed data receive sufficient information to enable them to mitigate the errors in the data.

*The bank's preliminary analyses regarding compensation:*

The bank has concluded that there is no basis for paying compensation to the bank's customers, since, according to the bank, additional issue no. 12 has not, viewed in isolation, caused customers to suffer a loss, including overcollection. We have not conducted any independent investigation in this respect, including of the question whether some customers may have suffered direct or indirect losses as a result of the flawed data, including whether some customers may be entitled to compensation for tort. Reference is also made to additional issue no. 4 above regarding customers who, due to the errors in the bank's data, may have been registered with RKI on an incorrect basis.

*The bank's measures to stop the issue and inform customers:*

In its statement to the Danish FSA of 1 September 2021, the bank states that it believes to have taken relevant measures to stop the issue.

According to the bank, the flawed data in both new and existing cases will be corrected as part of the bank's manual correction process or as part of the planned automated correction of data (write-back). In addition, the bank believes that updates of DCS and PF regarding the accuracy of data can remedy the breach of data protection rules in future. Reference is made to section 4.2 above, which states that the bank does not expect to have corrected the errors in the individual customers' data until 2022.

It should be noted that we have not made any investigations and/or assessment of whether the bank otherwise complies with the data protection rules, including whether the bank complies with the rules on storage and erasure, etc. In this connection, we note that the bank has informed us that it is aware of these issues but that the bank has not for the time being been able to document

that it in connection with these other issues has made a separate assessment of any data protection issues, including described the potential individual customer detriment from the processing, storing and disclosure of incorrect data.

#### **9.4.13 Issue no. 13 – Cases outsourced to debt collection agencies**

##### *Nature and scope of the issue:*

Additional issue no. 13 concerns cases where the bank has outsourced the debt collection to external debt collection agencies. For these cases, the bank has identified a number of errors in the exchange of data between the bank and the debt collection agencies.

According to the information provided, the bank has identified 12 root causes of the discrepancies in customer data between the debt collection agencies and the bank, which means that, if a customer case has been transferred to a debt collection agency, there is a risk that errors have occurred at all stages of the debt collection process, including in interest calculation and the handling of time-barring.

Examples of the above root causes of errors in the process are that, when cases are transferred to the debt collection agencies, no registration was made by the bank to the effect that a case had been “outsourced” to a debt collection agency, which means that the case appears in several systems without any indication from the bank that the bank is not itself to take steps to collect debt. In connection with the transfer of the cases, the claims (principal and interest) have also been aggregated as a result of the errors in the bank’s own systems. When a case has been transferred to the debt collection agency, the debt collection agency manages the data transferred differently from the bank, among other things because the debt collection agency makes its own interest calculation. Moreover, the ongoing debt collection management between the bank and the debt collection agency has not involved sufficient communications and exchange of information, which may mean that a customer has repaid his or her debt to the bank, but is still registered as a debtor with the debt collection agency that continues debt collection, or vice versa. Changes in the debt repayment agreed between the debt collection agency and the customer as a result of, for example, a composition with creditors or a settlement, are not always communicated to the bank, and a customer may thus have repaid his or her debt or have had a reduction in debt or accrued interest, while the bank has still registered the full amount of debt and/or the original interest rate in its systems. In addition, cases withdrawn from the debt collection agencies may still be active at the debt collection agencies, and this involves a risk that large or small parts of the debt are repaid twice.

According to the information provided, the 12 root causes of errors are caused by the fact that the registration procedures implemented between the bank and the respective debt collection agencies have been inadequate and that there were no sufficient standardised and well-described processes for the ongoing exchange of data and information on the progress of the debt collection case.

According to the bank's analyses, the data discrepancies mean that the bank's customers may have repaid too much in relation to the enforceable debt. Moreover, the bank may have made incorrect reports to the Danish tax authorities, and the bank may have prepared incorrect credit assessments and made incorrect registrations in RKI, including wrongful registration or registered on an inaccurate/incorrect basis.

The bank has stated that it has used three debt collection agencies, and these are the three debt collection agencies covered by the bank's analysis. The debt collection agencies are the following three:

- Michael Olsen & Partnere Inkasso A/S and its business partner Dansk Advokat Inkasso (MOP)
- Intrum A/S
- Lowell Danmark A/S (Formerly Lindorf Danmark A/S)

However, we have noted that the bank's Fact Pack does not describe the fact that the bank has previously also used the debt collection agency Collectia. We have had access to other internal analysis documents that more or less mention the transfer of cases to Collectia. We have asked the bank whether cooperation on collection through Collectia is also covered by the bank's analysis. The bank stated that the debt collection agency Collectia was not included in the bank's final analytical work as the bank no longer had active customers with Collectia. The bank has further stated that the bank has previously "outsourced" cases to the company Aktiv Kapital, which merged with Collectia in 2011. In its reply, the bank stated that, in connection with the investigation of cases handled by Collectia, the bank found flawed data in old cases from the period prior to the merger of Aktiv Kapital. The error identified meant that cases that had been closed by Aktiv Kapital were still registered as "active" in the DCS. According to the information provided by the bank, the error has been reported in an ORIS report, and we understand that the bank will extend its analyses to include this error, either by establishing a sub-issue to additional issue no. 13 or in the form of a new additional issue.

The bank has informed us that additional issue no. 13 covers up to about 79,000 customers divided between the three debt collection agencies mentioned above, i.e. exclusive cases that may be identified regarding the cooperation with Collectia. Of this number, some 69,000 customers are registered in the DCS and some 10,000 customers are registered in the PF. A customer may have multiple cases with a debt collection agency as well as cases with multiple debt collection agencies. According to the information provided, the bank has identified the potentially affected customers by comparing customer file extracts from the debt collection agencies with data stored in the bank's own systems. We note that, at a meeting on 17 September 2021, the bank stated that the numbers are provisional and that it cannot be ruled out that the bank finds additional cases that may be covered by additional issue no. 13.

The bank assesses that the approximately 10,000 customers in the PF cannot be at risk of overcollection due to this issue, as a sample of 15 cases has shown that data does not differ for these customers. In addition, the bank has conducted an investigation into the cooperation between the bank and the debt collection agency MOP, which is the only one used for handling the PF cases. The exchange of data between PF and MOP takes place, as far as the bank is able to see, by means of physical documents with correct and satisfactory debt information. In addition, MOP does not make any changes to the debt when it has been received from PF, other than adding debt collection costs.

On the basis of the above, the bank has concluded that the discrepancies in customer data can apply only to the approximately 69,000 customers handled by the bank through DCS. The bank has made a spot check covering 720 cases in total and, on the basis thereof, estimated the number of cases that are likely to be affected by the errors. According to the information provided, the spot check was manually made across the portfolios of cases of the debt collection agencies. The spot check also covers open and closed cases, and the bank has explained that the cases have been selected so as to cover different periods and thus be representative of the total population. According to the bank's Fact Pack, the bank estimates that approximately 75% of the cases covered by the spot check are affected by the data discrepancies.

It is noted that there is likely to be a significant overlap between customers in the DCS who have been affected by root causes 1 and 2 on the one hand and customers who may be affected by additional issue no. 13 on the other hand. It is therefore also likely that a number of customers who have received compensation as a result of root causes 1 and 2 or whose outstanding debt is currently affected by the two root causes will be entitled to (additional) compensation once the bank has developed a model for compensation regarding additional issue no. 13.

*The bank's preliminary analyses regarding compensation:*

In its analyses, the bank has drawn up a draft proposal for a model for correction of customer debts and for calculation of compensation, if applicable. No decision has been made to select a specific compensation model, and the work to compensate the affected customers has thus not yet begun.

According to the information provided, the bank has listed 11 objectives to ensure correct debt collection in future cases that the bank will transfer to the debt collection agencies, which includes data corrections, IT changes and updating of processes between the bank and debt collection agencies.

*The bank's measures to stop the issue and inform customers:*

The bank has informed us that no new cases have been sent to debt collection agencies since October 2019.

Furthermore, the bank has stated that, in September 2020, it instructed the debt collection agencies used to not add interest to the outstanding debt, that is, the interest rate was reset at 0%



with effect from the same date (1 October 2020) as in the bank's own debt collection systems. According to the information provided, the bank also instructed the debt collection agencies in September 2020 to suspend collection, which means that no active steps to collect debt have been taken and that payment agreements have been stopped. Collection is therefore suspended regardless of the amount of payments already made by the individual customer. The bank cannot, however, prevent customers wishing to repay the registered debt from making payments to the debt collection agencies. According to the information provided, the bank therefore makes a special effort to minimise the risk of overcollection by screening incoming payments from debt collection agencies on a monthly basis and individually contacting the customers who make such repayments. The customer is thus informed of the risk of overcollection and is offered a refund of the amount from the bank, unless the customer wishes to continue repaying despite the risk of errors and overcollection.

According to the information provided, in the course of October 2021, the bank expects to have informed potentially affected customers that the bank is investigating whether their cases may be affected by errors in the bank's exchange of data with the debt collection agencies.

For general communications with customers as a result of root causes 1-4, reference is also made to sections 6.6.2 and 9.3.1.1 above.

#### **9.4.14 Issue no. 14 – Nordania and Asset Finance**

##### *9.4.14.1 Denmark*

###### Nature and scope of the issue:

Additional issue no. 14 concerns Nordania's<sup>14</sup> practice of collecting reminder fees. In connection with the bank's work on the issue, the bank has concluded that issue no. 14 exists in Denmark and Norway. This section deals with issue no. 14 in Denmark. To address issue 14 in Norway, see (section 9.4.14.2) below. The bank has further divided issue no. 14 into two sub-issues with respect to customers in Denmark:

Sub-issue 14a concerns the fact that Nordania has charged too many reminder fees to its customers. This sub-issue arises because Nordania's "Leasing Core" system does not have built-in controls that prevent customers from being charged more than three reminder fees for the same debt. The issue has occurred in respect of personal customers since 2001 and in respect of business customers since 2002. We understand that this period definition is due to the fact that the issue is considered to have arisen as a result of the entering into force of section 9 b of the Danish Interest Rate Act, which provides that a creditor may charge only three reminder fees for the same service.

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<sup>14</sup> Nordania – Asset Finance is a business unit that is part of the bank Group but operates as both Danske Leasing A/S and Nordania Leasing, division of Danske Bank A/S. Issue no. 14 relates to Nordania's "Leasing Core" system.

The provision entered into force on 1 July 2001 in consumer affairs and on 1 August 2002 in non-consumer affairs.

Sub-issue 14b concerns the fact that Nordania has calculated interest on reminder fees (compound interest) and in some cases too much interest on reminder fees. We understand that issue 14b arises because the interest calculation in Leasing Core is made on the basis of the total amount in arrears, which includes reminder fees and interest thereon. The issue has existed since 2005 when section 8a of the Danish Interest Rate Act entered into force, see also the description under section 9.4.2.

For both issues, the period definition ends on 10 September 2020, as this is the date when, according to our understanding, measures to stop the issues were implemented, see below.

The treatment of issue no. 14 is carried out in a separate project called "Project Eos". We note that the project deals with five other issues, which we are only aware of in terms of title. We understand that the issues include that Nordania has not credited "unused mileage" to the customer's account in debt collection cases related to leasing of cars and that Nordania in the same connection has charged a so-called "registration fee". The different issues mean that customers have potentially been subject to excessive debt collection. The issues are not dealt with further in this report, but will be dealt with in a later report in connection with our assessment of compensation for the additional issues.

We note that the five other issues dealt with in a separate project are not mentioned as part of issue no. 14 or otherwise as separate issues in the reporting submitted to the Danish FSA by the bank. At a meeting on 22 October 2021, the bank informed us that it does not consider these issues to be covered by the FSA's order, which, according to the bank's understanding, only concerns Nordania's reminder fees, which were set out in appendix 2.5 to the bank's statement of 10 September 2020 to the Danish FSA.

*The bank's preliminary analyses regarding compensation:*

On the basis of its preliminary analyses, the bank estimates that a total of approximately 11,300 customers may be affected by issue no. 14. These are actually affected customers as identified by a review of digital transaction tables. In this connection, the bank's preliminary estimate is that it will have to pay out compensation to the affected customers totalling about DKK 17.4 million. We note that the bank has stressed to us that the preliminarily estimated compensation amount is subject to considerable uncertainty, and that the figure may thus both increase and decrease. We refer to section 9.3.1.2.

We have not received a timetable for when the bank expects to pay out compensation. Furthermore, we have not yet assessed the model chosen by the bank for calculating compensation, including whether the model provides full compensation to all affected customers.

The bank's measures to stop the issue and inform customers:

The bank has taken two steps to stop issue no. 14 in relation to customers in Denmark. Firstly, the bank has stopped imposing and collecting reminder fees in Nordania's system. Secondly, the bank has set the interest rate at zero. According to the information provided, the measures were implemented on 10 September 2020.

We note that the bank's general Pause logic applies only to the DCS and banking systems. We cannot see whether the bank has taken separate measures to ensure that customers covered by the issue at Nordania are not overcollected by the bank. Although the risk is probably small in view of the proportion of total debt that a fee would normally amount to, the bank does not appear to have carried out any separate investigation of this.

We understand that some customers have been sent to debt collection agencies. At a meeting on 22 September 2021, the bank informed us that no separate measures have been implemented for these customers and that these customers remain subject to debt collection. We understand that these are about 700 customers who have been transferred to the debt collection agencies.

The bank's information to customers only covers customers actually affected, which, as previously stated by the bank, is estimated at about 11,300 customers. However, the bank informs us that it has not sent information letters to 1,000 customers, which is due to the fact that manual processing is required and ongoing.

In the information letters sent, customers are informed that Nordania may wrongfully have charged too many reminder fees and that Nordania may have charged interest on reminder fees. The customer is informed that he or she may be entitled to compensation. In addition, Nordania will contact the customer as soon as there are updates in the customer's case. Finally, the bank refers to the website <https://nordania.dk/procesfej>. We therefore find that customers have been informed of the issue in question.

We note that the bank's general Pause logic has been implemented only for the bank's debt collection systems (DCS and PF). See note above and section 6.4 for the importance of the additional issues to the Pause logic in general. We do not have a basis for assessing the extent to which the issue entails a risk that the affected customers will be overcollected in the future.

*9.4.14.2 Norway*

Nature and scope of the issue:

In connection with the bank's work on remediating its debt collection, the bank's analyses have confirmed that issue 14 on reminder fees in Norway currently covers two sub-issues.

Sub-issue 14a concerns the fact that Asset Finance, Danske Bank (the bank) has charged too high reminder fees to the bank's customers in Norway. According to Norwegian law, the bank may

charge a maximum of NOK 35 in reminder fees. However, the bank has charged reminder fees exceeding this amount, which may have led to overcollection for the individual customers.

*Sub-issue 14b* concerns the fact that the bank has calculated interest on reminder fees in Norway on the basis of an interest rate that was too high. In this connection, the bank states that interest on reminder fees may be based on the highest rate permitted under Norwegian law and that the rate is changed every six months. The rate is presently 8%. In addition, sub-issue 14b concerns the fact that the bank has calculated interest on reminder fees (i.e. compound interest rather than the simple interest rate). According to the bank, this is wrongful, as Norwegian law requires that only a simple interest may be charged, which according to our information is presently a maximum of 8%. As the bank has applied a higher interest rate than the permitted rate, and as the bank has calculated compound interest, the bank may have overcollected its customers in Norway.

We do not have a detailed description of when the error occurred for both of the sub-issues. However, it appears from the bank's statement to the Danish FSA dated 30 September 2021 that the error has affected cases since 2004. However, at a meeting on 22 September 2021, the bank stated that it did not investigate cases that had been closed as at 1 January 2008, as the bank considers that the customer's claims in connection with cases closed before that date were obsolete under Norwegian legislation. We have not made an independent assessment of this issue.

For both sub-issues, the period range ends on 30 April 2021, as this is the date on which, according to our understanding, measures were implemented to stop issues, see below.

The treatment of issue no. 14 in Norway takes place in a separate project at the bank called "Project Eos", where other issues related to Nordania's debt collection practices are also located. In this context, we refer to our comments under (section 9.4.14.1). We do not have any insight into the other issues identified by the bank regarding debt collection in Norway, nor do we see that these issues are described in material to the Danish FSA.

*The bank's preliminary analyses regarding compensation:*

On the basis of its preliminary analyses, the bank estimates that a total of approximately 705 customers may be affected by issue no. 14, except for customers whose claims are deemed by the bank to be obsolete. These are actually affected customers as identified by a review of digital transaction tables. In this connection, the bank's preliminary estimate is that it will have to pay out compensation to the affected customers totalling about NOK 1.4 million. We have not yet assessed the model chosen by the bank for calculating compensation, including whether the model provides full compensation to all affected customers. We note that the bank has stressed to us that the preliminarily estimated compensation amount is subject to considerable uncertainty, and that the figure may thus both increase and decrease. We refer to section 9.3.1.2.

At meetings held on 9 and 22 September 2021, the bank has informed us that payment of compensation awaits the final approval of a compensation calculation model and clarification of

the tax implications that payment of compensation may have for the customer. The bank has a dialogue with the Norwegian tax authorities regarding this matter. It is our understanding that this dialogue is ongoing.

*The bank's measures to stop the issue and inform customers:*

The bank has taken two steps to stop issue no. 14.

Firstly, the bank has stopped imposing and collecting new reminder fees. Secondly, the bank has adjusted reminder fees and interest rates to a "permitted level". At a meeting on 22 September 2021, the bank stated that the "permitted level" is NOK 35 for reminder fees and an 8% interest rate. According to the information provided, the measures were implemented on 30 April 2021.

We also note that the bank's general Pause logic applies only to the DCS and banking systems and to customers in Denmark. We cannot see whether the bank has taken separate measures to ensure that customers covered by issue no. 14 in Norway are not overcollected by the bank. Although the risk is probably small in view of the proportion of total debt that a fee would normally amount to, the bank does not appear to have carried out any separate investigation of this. However, we do not have a basis for assessing the extent to which the issue entails a risk that the affected customers will be overcollected in the future.

We understand that some customers have been sent to debt collection agencies in Norway. The bank has informed us that these are about ten cases. We understand that since 25 June 2021 debt collection has been suspended in respect of these customers.

The bank has informed the customers actually affected, which, as previously stated by the bank, is estimated at about 705 customers, excluding customers whose claims are deemed by the bank to be obsolete. The bank informs us that it has sent information letters to all customers affected by issue no. 14 in Norway.

In the information letters sent, customers are informed that they may be entitled to compensation because they have paid too high reminder fees and too high an interest rate on reminder fees. The customer will be contacted as soon as there are updates in the customer's case. Finally, the bank refers to the <https://danskebank.no/purregebyr>. We therefore find that customers have been informed of the issue in question.

**9.4.15 Issue no. 15 – Incorrect bookkeeping**

*Nature and scope of the issue:*

Additional issue no. 15 concerns the bank's incorrect bookkeeping in its central bookkeeping system. Due to the errors resulting from the four root causes, the outstanding debt of customers has been incorrectly registered in the bank's debt collection systems. In connection with bookkeeping, the outstanding debt is considered receivables. Consequently, the errors in the debt

collection systems have led to the internal group reporting from the DCS and PF to Koncernregnskabssystem (KRS) containing incorrectly calculated receivables. As KRS serves as the basis for the Group's financial statements, this has included incorrect receivables. No customers are affected by the issue because it only concerns the bank's accounting matters.

According to the information provided, the bank identified the additional issue in connection with the analysis and identification of the four root causes and the consequences resulting therefrom. When analysing the situation in detail, the bank has tried to determine the extent of the incorrect bookkeeping and reporting. The analysis was made separately for the DCS and PF, as the bookkeeping of the systems' receivables is included in the reporting for various units, in particular Danske Bank and Realkredit Danmark.

As far as PF is concerned, the bank has, according to the information provided, made a quantitative assessment to estimate the scope of the error. The assessment was made on the basis of the average error registration in the system and the expected profit from the receivables. In relation to the financial year 2020, the bank has estimated an accounting error of approximately DKK 15 million. The error has been corrected in the bank's interim report for the third quarter of 2020, which included impairment charges on the bank's receivables.

As far as the DCS is concerned, the bank has, according to the information provided, made a qualitative assessment in order to estimate the scope of the error. On this basis, the bank has estimated that the bank has overestimated the receivables in the DCS by a maximum of DKK 24.6 million. Compared with the bank's total receivables of DKK 1,028 billion, the bank has assessed that the amount is immaterial to the bank's annual report. No adjustment has been made to the amount in the bank's annual report.

On the basis of the investigation, the bank has concluded that additional issue no. 15 is closed without the need to compensate customers, make changes to IT systems or make changes to business procedures. The bank has stated that it is expected that the bank's annual report for 2021 will be based on correct data, including that the potential impact on the bank's credit balance – which may be related to the other additional issues identified – will be taken into account.

We have not carried out an independent review of the basis on which the bank estimates the impact of the identified errors on the bank's bookkeeping and on the bank's interim and annual reports.

#### **9.4.16 Issue no. 16 – Handling of time-barred debt in the mortgage system**

##### Nature and scope of the issue:

Additional issue no. 16 concerns errors in the bank's mortgage system (Mortgage Deed System, MDS), which the bank has used since 1991 to process the bank's mortgages. The bank has divided additional issue into two sub-issues:

Sub-issue 16a: The MDS system does not contain information about or the functionality to handle potential time-barring of overdue debt in the system. In the MDS system, overdue instalments are always registered as arrears – even if the instalment is in fact time-barred in whole or in part.

Sub-issue 16b: The individual outstanding debt items in the MDS – i.e. interest, fees, principal, etc. – are aggregated to a total "principal" that is transferred for debt collection in the DCS in cases where the bank's mortgage had lapsed or was extinguished without the bank having obtained full recovery of the debt, for example, in connection with non-forced property sales in which a loss is accepted in relation to the mortgaged property. Sub-issue 16b is thus similar to root cause 1, but the issue has not been dealt with as part of root cause 1, as root cause 1 only deals with the transfer of debt from the bank's banking systems to the debt collection system (DCS) and not the transfer of debt from the mortgage system (MDS) to the debt collection system (DCS).

Moreover, mid-October 2021, the bank informed us that it intends to add two additional sub-issues, sub-issues 16c and 16d, concerning the bank's possible liability in connection with potential overcollection related to mortgages under which the bank's customers are/were the creditor (see below for more information), and the risk that the MDS system has systematically calculated and added too high late-payment interest in view of when customers have otherwise paid any arrears. As the bank's considerations in this connection are still at an initial stage, these sub-issues will not be dealt with in detail in this report.

The consequence of the sub-issues (16a and 16b) identified is that the MDS system (and subsequently the DCS system) calculates and adds late-payment interest on an incorrect calculation basis, including claims that may be time-based in whole or in part. In addition to the ongoing calculation of interest on outstanding debt that is potentially too high, there is also a risk that, in connection with the bank's collection or in connection with payments made to the bank, the customer will pay an amount that exceeds the bank's enforceable claim against the customer.

At a meeting on 11 October 2021, the bank informed us that approximately 370,000 mortgages are registered in the MDS system. The bank is/was the creditor of about 113,000 of the mortgages, while customers are/were the creditor – and the bank administrator – of the other approximately 257,000 mortgages. The bank has also informed us that approximately 2,200 mortgages remain "alive", i.e. a debtor is currently making repayments on the debt.

In relation to sub-issue 16a, the bank has identified approximately 120 potentially affected mortgages in the MDS. According to the bank's information, more customers may be associated with one mortgage. The bank estimates that for approximately 27 of the mortgages, the customers associated with the mortgage are at particular risk of repaying time-barred debt.

In relation to sub-issue 16b, the bank has provisionally identified approximately 520 cases that have been transferred from the MDS to the DCS and are therefore potentially affected by the issue

concerning aggregation of debt types into a total principal. In connection with its preliminary analysis, the bank has identified the 520 cases transferred by searching for different "email titles" (subject fields) in selected internal mailboxes that have been used in connection with the bank's debt collection. The bank has pointed out that it has solely had access to emails from 2013 onwards and that the relevant emails may have been sent with other "titles", and relevant emails may also have been deleted.

At the meeting on 11 October 2021, the bank informed us that its work on identifying potentially affected customers is still in progress and that the bank currently does not know when it expects to complete this identification process.

We note that, according to the information provided, the bank has not yet completed its search for customers who may be affected by the issue, and we cannot, on the basis of the bank's preliminary search, express any clear conclusion to the effect that the bank can be assumed to have identified all the affected cases. Instead, we will consider whether the bank has identified all the affected customers when we consider the bank's payment of compensation and correction of data (the so-called "write back").

*The bank's preliminary analyses regarding compensation:*

In relation to sub-issue 16a, the bank has prepared a preliminary estimate of the bank's potential collection of time-barred debt. The bank's preliminary estimate is based on 29 specific cases that the bank has provisionally identified in the MDS, but as stated above, it cannot be ruled out that the bank may later identify more cases relevant to the bank's total compensation calculation.

On the basis of its preliminary analyses, the bank has calculated the sum of the potentially time-barred debt in the 29 cases at approximately DKK 2.8 million. If all the entire potentially time-barred debt in the cases in question is in fact time-barred, the bank must thus pay compensation of approximately DKK 2.8 million to the customers, excluding any interest compensation and time compensation. As described in section 9.3.1.2, the compensation is in some cases expected to be made by way of correction of the debt balance, whereas in other cases, customers will receive a payment. The bank therefore assesses that the potential compensation may consist of repayment and/or set-off against outstanding debt in the MDS mortgage system.

The potentially time-barred debt in the 29 cases varies in size from DKK 6,740 to DKK 339,082. Some customers may thus be entitled to compensation or set-off of significant amounts.

In relation to both the bank's preliminary estimate of the number of customers potentially affected by the additional issue no. 16 and the bank's estimate of the total compensation amount, we note that the bank has stressed to us that that the figures are to a wide extent preliminary and subject to considerable uncertainty, and that the figures may thus both increase and decrease.

*The bank's measures to stop the issue and inform customers:*



The bank has informed us that the MDS system continues to automatically calculate and send regular payment letters to the customers in the approximately 2,200 active cases in the system. The bank states that due to a lack of knowledge about the system – which was put into operation in 1991 – it is not considered possible/reasonable to make corrections to the system's functionality that suspend the distribution of reminder letters.

To avoid that the continued automatic debt collection leads to overcollection, the bank has instead, in order to suspend sub-issue 16a, assigned one employee to manually process the cases in which the bank assesses that there is a risk that customers may repay time-barred debt. At the time of the preparation of this report, we have not been given detailed insight into this manual process, but the bank has described the overall steps of the process and in this connection explained how it is ensured that no time-barred debt is repaid. According to the information provided by the bank, the assigned employee may thus mitigate the active debt collection in the MDS system in cases where there is a risk that the customers will repay time-barred debt, and the assigned employee may reject any incoming payments if any of the affected customers were to take the initiative to repay their potentially time-barred debt.

In relation to sub-issue 16b, the bank has stated that it has not taken any action to suspend the sub-issue at this stage. The bank has informed us that, at 15 October 2021, it continues its investigation of the measures that the bank can take to stop the sub-issue. The process for transferring cases from the MDS to the DCS is thus still flawed. The bank has informed us that only about five cases are transferred annually in this way and that there is no risk of overcollection due to the bank's Pause logic, including the suspension of interest accrual introduced by the bank on 1 July 2021 with effect from 20 October 2020 (see section 6.4 above).

At the meeting on 11 October 2021, the bank stated that it intends to inform the approximately 120 customers potentially affected by sub-issue 16a in October 2021, see above. According to the bank, the information will reflect the bank's assessment of the customers' current risk of being subject to overcollection. 27 customers will receive information about the suspension of their repayments until the bank has examined the actual risk of overcollection in detail (see above for customers who are expected to receive compensation). Approximately 13 customers will receive information about continuing their repayments, while the bank will manually monitor the cases and ensure that the customers do not risk paying too much (see above about the bank's measures to stop sub-issue 16a), and finally the remaining approximately 80 customers will receive general information about the issue as the bank does not currently assess that there is a risk of overcollection, because the customers do not currently pay instalments to the bank, for example because these cases may be closed.

#### **9.4.17 Issue no. 17 – Calculation of interest in the DCS**

##### Nature and scope of the issue:

Additional issue no. 17 concerns a number of errors in the bank's ongoing calculation and addition of interest in the DCS.

Fundamentally, the errors are the result of the fact that the DCS was generally developed to calculate interest on the interest accrued (i.e. compound interest). Thus, the DCS did not generally include functionality for calculating simple interest, i.e. functionality where the system only calculates interest accrued on the principal.

According to the information provided, the bank has, in the period from 2012 onwards, had a need to be able to calculate simple interest in debt collection cases based on the contractual relationship with a number of its customers. Against this background, the bank developed a change to the DCS in 2012, which enabled the system to calculate simple interest. The solution entails that interest is added with a future value date (31/12/2999), which means that the accrued interest is not included in the subsequent calculation of interest.

This change in the DCS has proved to have a number of unintended and unforeseen effects, and in its preliminary analysis, the bank has treated three specific more or less atypical events.

We note that the analysis material made available to us by the bank in relation to additional issue no. 17 describes only specifically registered unintended events in ORIS and does not describe any additional potential effects of the use of future value dates in the calculation of interest in the DCS or problems associated with the interest calculation in the DCS in general. This means that the bank's own analyses directly indicate that the bank has not necessarily identified and assessed all relevant aspects of the issue regarding calculation of interest in the DCS, including in relation to a number of identified potential additional sources of error that we understand the bank will investigate further.

It is our assessment that, before the analyses are completed, the bank should carry out an in-depth examination and analysis of the interest calculation functionality of the DCS, among other things because the nature and scope of the errors give rise to considerable uncertainty as to whether the functionality has other errors that may have led to the calculation of incorrect interest for the individual customers. We will follow this analysis in our subsequent work, and the results of the inspection will be included in a later report to the Danish Financial Supervisory Authority.

Despite the preliminary nature of the analyses, the bank has at present identified a number of specific matters that result in the bank having calculated too high interest, including that, in some cases, the bank has calculated interest on the interest amount even though only simple interest should have been calculated.

We note that, according to the information provided, the bank may also, in the period 2002-2012, have had to calculate simple interest based on either agreement with the customer or non-mandatory rules in this respect. There is thus a risk that, during this period, the bank has

wrongfully calculated compound interest on customers' debt. We have asked for further information about the scope of the issue and are currently awaiting the bank's response. According to the information provided, the bank has initiated an independent analysis of this and prepared an ORIS report to this effect on 1 October 2021.

*The bank's preliminary analyses regarding compensation:*

So far, the bank's preliminary analyses have shown that at least two groups of the identified issues may result in the customers' debt balance being today incorrectly registered and some customers being entitled to compensation as a result of actual overcollection.

For one of the issues in question (sub-issue 17a), the bank's states in its analysis material that the customers in question are estimated to be entitled to compensation totalling up to approximately DKK 3.1 million if all 480 customers are affected. This amount does not include time compensation. We have not received detailed information about how the bank has estimated the amount.

For the second of the issues in question (sub-issue 17b), the bank has identified a total of approximately 600 customers who may be affected. On the basis of sample manual reviews, the bank believes that only a small number of these customers will be entitled to compensation and that the compensation in the individual cases will amount to an average of approximately DKK 4,000.

We have not analysed the basis for the bank's calculations in detail, and according to the information provided, the bank has not finally approved a model for compensation of affected customers.

We note that the bank has stressed to us that both the bank's preliminary estimate of the number of customers who may be affected by additional issue no. 17 and the bank's preliminary estimate of the total compensation amount at present are subject to considerable uncertainty, and that the figures may both increase or decrease. Reference is made to section 9.3.1.2.

In this connection, we note that the bank's preliminary calculations are limited to the sub-issues that the bank has at present analysed in more detail. Thus, it cannot be ruled out that the number of potentially affected customers and the total compensation amount may prove to be significantly higher due to errors in the bank's ongoing calculation and addition of interest in the DCS.

*The bank's measures to stop the issue and inform customers:*

According to the information provided, the bank has initiated IT development to ensure that the bank's systems in future can handle correct calculation of interest. We have not yet carried out any investigation in this respect, and we have not examined whether the bank has developed a method to ensure that corrections to customer data (value dates etc.) will not in future lead to errors in the calculation of interest.

According to the information provided, the bank has not taken any special measures to prevent overcollection from customers who may be affected by sub-issue 17.a. As far as we can see, the customers in question are protected only by the bank's general Pause logic, see section 6.4. above. The bank has informed us that it has implemented a solution to sub-issue 17.b, which prevents future overcollection. However, we have not yet examined the solution since we have not yet received any relevant material describing the solution.

The bank has informed us that, in September 2021, it sent information letters to a total of approximately 60,000 customers who are potentially affected by one or more additional issues, including an unspecified number of customers potentially affected by additional issue no. 17. However, we do not know whether the 60,000 customers include all customers who, according to the information provided by the bank, may be affected by the issue. Reference is also made to sections 6.6.2 and 9.3.1.1 above on communication in relation to the additional issues.

#### ***9.4.18 Issue no. 18 – No follow-up on customer agreements***

##### ***Nature and scope of the issue:***

Additional issue no. 18 identified by the bank concerns the bank's failure to follow up on a number of payment agreements with the bank's customers.

In connection with the transfer of a customer's case to debt collection in DCS, the bank offers customers the option of entering into an agreement on debt repayment in instalments. Some customers are unable to comply with the terms of a payment agreement, which implies an appropriate degree of repayment of the interest-bearing principal. In such cases, the bank offers a temporary agreement under which the customer will typically make lower monthly payments than usual. According to our information, this takes place when the bank has assessed whether the lower monthly payments are acceptable relative to the amount of debt and the customer's situation.

On the basis of the individual contents of an agreement, a temporary agreement lasts for a maximum of three years, and then the agreement will have to be renegotiated. Follow-up takes place through a manual process in which the bank's customer advisers must renegotiate the temporary agreement as the three-year period expires. Additional issue no. 18 concerns cases in which the bank has failed to follow up on temporary agreements or in which the bank has not closed the temporary agreements if the customer has not responded to the bank's follow-up. As a result, customers have been able to continue to make payments under such agreements for a period longer than three years without the bank having taken the initiative to discuss with the customer whether in connection with renegotiation the customer could increase regular payments to a level that would result in faster repayment.

The bank finds that the lack of follow-up and renegotiation will be breach the principles of good practice and be contrary to good debt collection practice.

In its quarterly statement of 30 September 2021 to the Danish FSA, the bank informed the FSA that the error occurred between 2005 and 2020 in cases where payment agreements were registered with no follow-up date or where the follow-up date was exceeded without a credit officer having processed and handled the case in a manual process. The basis for selecting this period is not described in detail in the available material. In its preliminary analysis of June 2021, the bank estimates that about 48,000 customers may be affected by the issue as result of customers being registered with payment agreements in the bank's DCS system. Of these, about 800 customers have a high risk of being affected by the issue, see more details below.

The issue relates to agreements established in DCS, and the bank has discovered in its analyses that the issue has not affected PF cases.

Addressing issue no. 18 has included looking into three additional issues:

Firstly, the bank has examined a number of the payment agreements mentioned above. They are characterised by the fact that interest accrued corresponds to or exceeds the customer's repayments, meaning that the customer is not repaying interest-bearing principal at all under the agreement. As a result, the customer's repayments will never suffice to fully repay the total debt owed to the bank. The bank concludes that this is not in isolation contrary to the principles of good practice. However, the bank finds that such agreements may conflict with the rules and principles of good practice and be detrimental to the customer in cases in which the bank has made no follow-up in respect of the customer after the time of the renegotiation of the temporary payment agreement. The bank's failure to follow up on the customer's case thus means that the customer is not actively reminded that increasing repayments is a precondition for reducing the interest-bearing principal.

Secondly, the bank has examined whether customers have been treated on the basis of transparent criteria in connection with the conclusion of a temporary payment agreement.

Thirdly, the bank has examined whether the bank has communicated sufficiently clearly to customers who have entered into a temporary payment agreement.

The bank concludes that the analyses of the latter two issues have not revealed breaches of the principles and rules of good practice or of the contractual relationship that have exposed customers to overcollection. As a result, the bank has decided to close its analysis of the issues in question. We have not carried out an independent review of the basis for this conclusion.

*The bank's preliminary analysis regarding compensation:*

As mentioned above, the bank's preliminary analyses show that some 48,000 customers may be affected by issue no. 18 as a result of customers having been registered with payment agreements in DCS. However, the bank's preliminary estimate is that only about 800 customers will have a high risk of having been subject to overcollection (see below). In this connection, the bank has concluded that a number of its customers must be expected to be entitled to compensation, and for a number of customers, the bank is expected to have to reduce the customers' outstanding debt to the bank. The bank has divided the affected customers into four different segments, which are described by the bank as follows:

The bank labels the first segment the "high-risk segment". The segment comprises customers with agreements under which the total amount of debt has increased over the period even though the bank's repayment agreement with the customer has been fulfilled by the customer. At the same time, the agreements are estimated to have a repayment ratio of more than 100%, which we understand to mean that customers have already paid more than the original amount due by the customer at the time of the conclusion of the original payment agreement. Against this background, the bank believes that there is a high risk that customers may have been exposed to wrongful overcollection since the bank did not at the agreed renegotiation dates take initiative to discuss with the customer whether repayments could be increased.

At present, the bank estimates that the high-risk segment comprises about 800 customers who are expected to be entitled to compensation. The bank estimates that this compensation may amount to approximately DKK 8.6 million. We understand that the bank's work to calculate compensation for these customers is ongoing and the bank has stressed to us that both the preliminary figure for affected customers and the bank's preliminary estimate of the total compensation amount are subject to considerable uncertainty. See also section 9.3.1.2.

The other three segments cover customers that the bank estimates may be exposed to overcollection only to 2) a medium, 3) a low or 4) the lowest degree since the repayment ratio is proportionately lower than 100% in relation to the original debt covered by the temporary payment agreement.

For these other segments, however, the bank has also stated that a detailed review of the customer's payment history is required to determine with certainty the customers that are affected by additional issue no. 18, including whether these customers are entitled to compensation. For this reason, the bank has not provided an estimate of the total compensation that it may need to pay to these customers. We are not aware of when the bank expects to have prepared an analysis of this. Nor does it appear that a model has been adopted for calculating compensation to customers affected by additional issue no. 18.

*The bank's measures to stop the issue and inform customers:*

The bank states that the issue has been stopped as a result of the bank's implementation of the "Pause logic" and the suspension of interest accrual introduced in this connection, see section 6.4

for details. According to the bank, this ensures that interest accrual has been suspended for the temporary agreements, including in relation to those agreements for which the renegotiation date has been exceeded. We understand that the bank has stopped collecting payments in respect of customers in the high-risk segment. In addition, the bank will continue to update the instructions to case officers to ensure that temporary payment agreements are offered on sufficiently clear terms and that the officers follow up on the agreements as the renegotiation date approaches.

According to the information provided, the bank can continue to receive payments from customers in the other segments in which the repayment ratio is lower than 100% and the renegotiation date for the payment agreement has been exceeded. Since 5 July 2021 at the latest, customers have been covered by the bank's general Pause logic, which, among other things, means that no interest will accrue (0% rate of interest). According to the bank, the suspension of interest accrual ensures that no payment agreements exist under which interest accrued exceeds the customer's repayment and the customer consequently does not reduce the interest-bearing principal. Moreover, on 15 October 2021, the bank decided to stop payment agreements for all customers regardless of the amount of payments already made by the customer, unless the customer has indicated or later indicates a wish to continue repayments despite the risk involved. Reference is made to section 6.4.

As mentioned above, the bank estimates that 48,000 customers may be affected by issue no. 18. Initially, the bank has decided to provide information only to customers in the high-risk segment. The information will thus be sent to about 800 customers. According to the bank, the affected customers are notified in the course of October 2021.

We note that the letter informs customers that they may have continued to make repayments even if the agreement in question had expired and had to be renegotiated. It is also clear from the text in question that customers may have made repayments under an agreement that in fact do not reduce the customer's total debt to the bank and that in this connection, the bank will examine whether the temporary agreement was so inappropriate that the bank cannot collect the full debt. In this connection, we find that the customers are informed about the essential elements in relation to additional issue no. 18.

The bank will provide information to customers categorised by the bank as belonging to the other segments when the bank has had the opportunity to review their payment history. The bank has not provided a detailed timetable for when it expects to complete an analysis of this work.

#### **9.4.19 Issue no. 19 – Triviality limit for overcollection**

##### Nature and scope of the issue:

Additional issue no. 19 concerns errors in connection with the bank's closing of cases in the DCS where the customer's last payment to fully repay the outstanding debt turns out to exceed the

outstanding debt. In these cases, there was a positive closing balance in the customer's favour when the case was closed.

In connection with closing these cases in the DCS, the bank – from the first use of the DCS system in 2004 until November 2020 – manually changed the closing balance to DKK 0 if the balance in the customer's favour was less than DKK 50. As a result of this practice, the bank in fact failed to repay an amount owed to the customer by the bank.

The bank has identified 11,706 customers who may be affected by the issue.

*The bank's preliminary analysis regarding compensation:*

The bank has decided to provide compensation to all affected customers in the amount of DKK 50. This corresponds to the maximum amount of overcollection in the relevant cases plus a time compensation (interest) for the time elapsed since the bank's resetting of the balance of the customer's account and its repayment. Finally, the bank will ensure that customers receive compensation for any tax liable on the amount.

The bank has provisionally estimated the total compensation costs to be approximately DKK 600,000. To this amount should be added the bank's expenses for the time- and tax-related compensation that, according to the bank, will be calculated in connection with the actual compensation process.

We note that the bank has stressed to us that both the bank's preliminary estimate of the number of customers who may be affected by additional issue no. 19 and the bank's preliminary estimate of the total compensation amount at present are subject to considerable uncertainty, and that the figures may both increase or decrease. Reference is made to section 9.3.1.2.

*The bank's measures to stop the issue and inform customers:*

In November 2020, the bank provisionally suspended the process of closing all cases in the DCS that have a positive closing balance.

As a result of the measures taken by the bank, there is (as at June 2021) a backlog of about 3,500 cases (June 2021) that must be closed in the DCS. According to the information provided by the bank, the bank is currently planning a separate project to handle these cases.

We note that on 22 October 2021, the bank decided to withdraw the registration of all customers from RKI, see section 9.4.4 above. Among other things, this will (also) ensure that cases with positive end balances that have not been closed do not lead to customers continuing to be registered in RKI by error if their registration in RKI is to be deleted.



The bank has informed us that it sent information letters in September to a total of approximately 60,000 customers who may be affected by one or more additional issues, including to an unspecified number of customers who may be affected by additional issue no. 19. However, we do not know whether the 60,000 customers include all 11,706 customers who, according to the bank's information, may be affected by the issue. Reference is made to section 6.6.2 on communications in relation to the additional issues.

The bank has sent us a copy of the information letter. We note that the letter contains a satisfactory description of the issue.